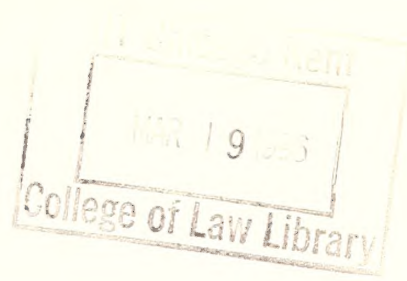
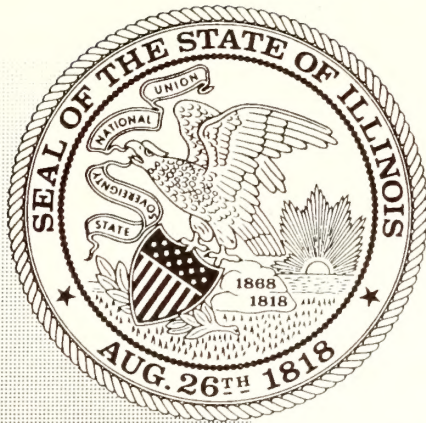


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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 8) Do these proposed amendments contain any incorporations by reference? No
 9) Are there any proposed amendments pending to this Part? Yes

Section Numbers Proposed Action Illinois Register Citation

310.230 Amended 20 Ill. Reg. 4060 (March 8, 1996)

10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
 Department of Central Management Services
 Division of Technical Services
 504 William G. Stratton Building
 Springfield, IL 62706
 (217) 782-5601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The salary increases for the class titles subject to the NR-916 Collective Bargaining Unit in the Department of Natural Resources were unknown at the time.

The full text of the proposed amendment(s) begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Pay Plan

2) Code Citation: 80 Ill. Adm. Code 310

3) Section Numbers: Proposed Action:

310.Appendix A, Table AA Amended

4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

5) A Complete Description of the Subjects and Issues Involved: In Section 310.Table AA, the Teamsters' Local NR-916 negotiated a new Professional/Technical salary schedule increasing the maximum of the ranges by \$75 to \$170, effective July 1, 1995; and increasing the minimum of the ranges by \$30 to \$60, effective January 16, 1996, as shown below:

Class Title	Minimum Salary	Maximum Salary	Minimum Increased by	Maximum Increased by
Cartographer III	2535	4535	\$155	\$155
Civil Engineer I	2470	3870	\$160	\$160
Civil Engineer II	2630	4390	\$130	\$130
Civil Engineer III	2900	4915	\$170	\$170
Civil Engineer Trainee	2315	3250	\$95	\$95
Engineering Technician I	1390	2585	\$75	\$75
Engineering Technician II	1695	3100	\$90	\$90
Engineering Technician III	2075	3695	\$110	\$110
Engineering Technician IV	2550	4795	\$165	\$165
Technical Manager I	1955	3485	\$105	\$105

Minimum Increased by

Cartographer III	2585	4535	\$50	\$50
Civil Engineer I	2520	3870	\$50	\$50
Civil Engineer II	2685	4390	\$55	\$55
Civil Engineer III	2960	4915	\$60	\$60
Civil Engineer Trainee	2365	3250	\$50	\$50
Engineering Technician I	1420	2585	\$30	\$30
Engineering Technician II	1730	3100	\$35	\$35
Engineering Technician III	2120	3695	\$45	\$45
Engineering Technician IV	2605	4795	\$55	\$55
Technical Manager I	1995	3485	\$40	\$40

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
 POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
 PAY PLAN

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 310.30 Jurisdiction
 310.40 Pay Schedules
 310.50 Definitions
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 310.100 Other Pay Provisions
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

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 310.440 Merit Compensation Salary Schedule
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 TABLE B HR-200 (Department of Labor - Chicago, Illinois - SEIU)
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code (20 ILCS 415/8 and 8a).

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11999, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10653, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 21, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21958, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 1417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6152, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective _____.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.TABLE AA NR-916 (Department of Natural Resources, Teamsters)

Effective: July 1, 1995 ~~June-31-1995~~

	Minimum Salary	Maximum Salary
Cartographer III	2535	4535 4980
Civil Engineer I	2470	3870 3710
Civil Engineer II	2630	4390 4260
Civil Engineer III	2900	4915 4745
Civil Engineer Trainee	2315	3250 3155
Engineering Technician I	1390	2585 2510
Engineering Technician II	1695	3100 3010
Engineering Technician III	2075	3695 3585
Engineering Technician IV	2550	4795 4630
Technical Manager I	1955	3185 3000

Effective: January 16, 1996

	Minimum Salary	Maximum Salary
Cartographer III	2585	4535
Civil Engineer I	2520	3870
Civil Engineer II	2685	4390
Civil Engineer III	2960	4915
Civil Engineer Trainee	2365	3250
Engineering Technician I	1420	2585
Engineering Technician II	1730	3100
Engineering Technician III	2120	3695
Engineering Technician IV	2605	4795
Technical Manager I	1995	3185

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Procedures to be Followed in the Performance of Annual Inspections of Motor Vehicle Exhaust Emissions

2) Code Citation: 35 Ill. Adm. Code 276

3) Section Numbers: Proposed Action:

276.101	Amend
276.102	Amend
276.201	Amend
276.202	Amend
276.203	Amend
276.204	Amend
276.205	Amend
276.206	Repeal, Add
276.301	Amend
276.303	Amend
276.304	Amend
276.305	Amend
276.306	Amend
276.307	Amend
276.308	Amend
276.309	Amend
276.310	Amend
276.311	Amend
276.401	Amend
276.402	Amend
276.501	Amend
276.502	Amend
276.503	Amend
276.504	Add
276.601	Amend
276.602	Amend
276.603	Renumber, Add
276.604	Renumber, Amend
276.701	Amend
276.702	Amend
276.703	Amend
276.704	Repeal, Amend
276.705	Renumber
276.801	Amend
276.802	Amend
276.803	Amend
276.804	Amend
276.901	Amend
276.902	Amend
276.903	Amend
276.904	Repeal

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

276.1001 Add
276.1002 Add

4) Statutory Authority: 625 ILCS 5/13A and 13B

5) A Complete Description of the Subjects and Issues Involved: These proposed amendments will incorporate recent, beneficial changes in federal guidance for an improved "basic" vehicle inspection and maintenance program, and also incorporate changes contained in 625 ILCS 5/13B designed to help implement the upcoming "enhanced" I/M program. Specific proposed amendments include: introducing a simpler exhaust emissions test; adding a test to determine the quality of a vehicle's evaporative system by testing a vehicle's fuel cap; eliminating the three-element tamper check; and strengthening quality assurance and quality control requirements.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805/3(b)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Send written comments concerning Part 276 within 45 days of publication in the *Illinois Register* to:

Christopher P. Demerukas
Assistant Counsel
Illinois Environmental Protection Agency
Bureau of Air
P.O. Box 19276
Springfield, IL 62794-9276

The Agency will hold a public hearing for this proposed rulemaking on April 10, 1996 at 1:00 P.M. at:

Room 8-032
James R. Thompson Center
100 W. Randolph St.
Chicago, IL 60601

12) Initial Regulatory Flexibility Analysis:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

A) Types of small businesses, small municipalities and not for profit corporations affected: Fleet self-testers will be affected by these proposed amendments.

B) Reporting, bookkeeping or other procedures required for compliance: Certain reporting and bookkeeping procedures involving fleet self-testing (e.g. when results of emissions tests have to be submitted to the Agency) will need to be improved.

C) Types of professional skills necessary for compliance: The current types of professional skills necessary for compliance will still be needed for these proposed rules.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The decision to pursue this rulemaking was not made by the Agency until after the deadline to include a summary of this rulemaking as part of the most recent Regulatory Agenda.

The full text of the Proposed Amendment begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

TITLE 30: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 276

PROCEDURES TO BE FOLLOWED IN THE
PERFORMANCE OF ANNUAL INSPECTIONS OF
MOTOR VEHICLE EXHAUST EMISSIONS

SUBPART A: GENERAL PROVISIONS

Section
276.101 Purpose
276.102 Definitions

SUBPART B: VEHICLE EMISSIONS EMISSION INSPECTION PROCEDURES

Section
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276.1002 Requirements for Vehicles Registered in Other Jurisdictions Requiring Vehicle Emissions Inspection and Located in an Affected County

AUTHORITY: Implementing and authorized by the Vehicle Emissions Inspection Law [625 ILCS 5/Ch. 13A and 13B].

SOURCE: Adopted at 10 Ill. Reg. 13954, effective August 13, 1986; amended at 16 Ill. Reg. 10230, effective June 15, 1992; amended at 20 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets; and SUM means the summation series or sigma function as used in mathematics.

SUBPART A: GENERAL PROVISIONS

Section 276.101 Purpose

This Part establishes specific procedures to be followed in the performance of inspections of motor vehicle ~~exhaust~~ emissions.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.102 Definitions

- a) Except as hereinafter stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Environmental Protection Act [415 ILCS 5]. ~~§§§§-Rev7-Stat-1997-CH-111-1727-PAR-1991-ET-SEQ-7~~ and the Vehicle Emissions Inspection Law [625 ILCS 5/Ch. 13A], and the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/Ch. 13B] ~~§§§§-Rev7-Stat-1997-CH-95-1727-PAR-19A-ET-SEQ-7~~.

b) The following definitions apply to this part:

"Accuracy" means the ~~±-the~~ combination of bias and precision errors, technically defined as uncertainty, that quantify the differences between a measured and true value.

"Affected county" means any ~~county~~ ~~county~~ county or portion thereof, as defined in Section 13A-102 of the Vehicle Emissions Inspection Law.

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"Agency" means the ~~±-Illinois~~ Environmental Protection Agency

"Assigned test month" means the month and year ~~test month~~ ~~Month~~ allocated by the Agency for testing a vehicle. The first day of the "Assigned Test Month" shall be 4 months prior to the sticker or certificate "Expiration Date".

"Average-Exhaust-Gas-Concentration" ~~±-integrated-average~~ ~~of analyzer-response-over-a-5-15-second-sampling-period~~

"Calibration" ~~±-the act of defining or checking the full response curve of the exhaust gas analyzer~~

"Calibration gas" means a ~~gas~~ ~~A~~ gas of known concentration used to establish the response curve of the exhaust gas analyzer.

"Catalytic Converter" ~~±-Device designed to convert exhaust emissions using chemical catalysts to oxidize unburned hydrocarbons and carbon monoxide into water vapor and carbon dioxide~~ ~~±-Three-way catalysts converters also convert oxides of nitrogen (NOx) emissions by catalytically reducing NOx to nitrogen and oxygen~~

"Corrected or interim emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.108 that contains a reassigned vehicle test month issued to an owner of a vehicle subject to emissions inspection who has petitioned the Agency for a change in Assigned Test Month, and whose vehicle has previously been issued an Initial Emissions Inspection Sticker or Certificate with an Assigned Test Month.

"Drift" means the ~~±-the~~ amount of change in analyzer reading over a period of time. Zero drift refers to the change of zero reading. Span drift refers to a change in the reading at a specified span gas calibration point.

"Emission control devices" means those components of a vehicle which were designed and are used to reduce vehicle exhaust and evaporative system emissions. For the purpose of this Part, this term refers to components with which the vehicle was originally equipped or direct replacements.

"Evaporative system integrity (pressure) test" means a quality test of a vehicle's evaporative system. The test shall either consist of a leak flow rate check of a vehicle's fuel cap with a fuel cap leak flow tester (fuel cap leak flow test), or a functional check of the fuel cap, as applicable.

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8,500 pounds maximum GVWR and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light duty vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or fewer. ~~Buty vehicle;--passenger--car--designed--to--carry--not--more--than--ten persons.~~

"National Institute of Standards and Technology (NIST) gas" means a standard ~~Bureau-of-Standards--(NBS)--Gas--Standard~~ gas maintained or made available by the National Institute of Standards and Technology ~~Bureau-of-Standards~~ for the purpose of determining the accuracy of calibration gases.

"Non-exempt vehicle" means any ~~Vehicle~~ vehicle subject to emission inspections under the Vehicle Emissions Inspection Law.

"Non-fleet vehicle" means any ~~Vehicle~~ non-exempt vehicle except for vehicles registered with the Agency for the purpose of fleet self-testing.

"Official inspection station" means a ~~inspection--Station~~ vehicle emission inspection facility operated by the Agency or the Agency's Contractor for the purpose of conducting emission inspections on non-fleet vehicles.

"Preconditioning mode" means a period of steady-state high-idle operation conducted to ensure that the engine and emissions control system components are operating at normal operating temperatures, thus minimizing false failure caused by improper or insufficient warm-up.

"Private official inspection station" means a ~~Official-Inspection Station~~ vehicle emission inspection facility operated by a registered owner or lessee of fifteen (15) or more non-exempt fleet vehicles. This is also referred to as a fleet inspection station.

"Renewal emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.306 to an owner of a vehicle which successfully passes a vehicle emissions test in accordance with the provisions of this Part.

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"Second-chance idle mode" means the second of two idle mode sampling periods during a steady-state idle mode test, preceded by a preconditioning mode and utilized as a second chance to pass idle exhaust emission standards immediately following an initial idle mode failure.

"Span gas" means a ~~Gas~~ gas of known concentrations which is used to check or adjust the analyzer response characteristics to those determined by the calibration gases. Span gas used shall be a blended gas containing propane, carbon monoxide and carbon dioxide in nitrogen meeting the following specification:

Low range gas:

HC: 200 - 800 ppm (propane)

CO: 1.0 - 2.0%

CO(2): 6 - 10%

High range gas:

HC: 80% of full scale \pm 5%

CO: 80% of full scale \pm 5%

CO(2): 6 - 10%

"State inspector" means an ~~Inspector~~ Agency employee who is authorized to conduct waiver inspections and approve or disapprove applications for waiver.

"Steady-state idle test" means a vehicle emission test procedure consisting of an initial idle mode measurement of exhaust emissions followed, if necessary, by a high idle preconditioning mode and a second-chance idle mode.

"Temporary emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.307 to an owner of a vehicle subject to inspection which currently has a valid initial or renewal emission inspection sticker or certificate, and which has met the requirements of this Part.

"Test cycle" means a biennial test frequency.

"Vehicle inspection report" means a ~~inspection-report~~ report issued to the motorist indicating the results of an emission inspection or waiver determination.

"Waiver" means a ~~waiver~~ suspension of the requirement that a non-exempt vehicle comply with exhaust emission standards after two or more attempts to do so, as provided for in this Part. ~~the statutory requirements in it;--Rev--Stat-1997--ch-95--17.5--part-1A-106(d)--as-amended--are--not.~~

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"Waiver emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.309 to an owner of a vehicle which has failed a vehicle emissions test and at least one refuel, or successfully complies with the applicable waiver requirements of this Part.

"Waiver inspection" means an inspection conducted by a State Inspector to determine waiver eligibility. Such inspection includes verification of the law, emission test, repair, and repair documentation and visual inspection of a vehicle for verification of repairs and presence of a properly functioning catalytic converter and fuel inlet restrictor and properly functioning fuel cap.

"Waiver inspection report" means a form containing waiver eligibility requirements which is completed by a State Inspector to determine whether a vehicle is eligible for a waiver.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: VEHICLE EMISSIONS EMISSION INSPECTION PROCEDURES

Section 276.201 General Description of Vehicle Emissions Inspection Procedures

Compliance with vehicle exhaust and evaporative emissions emission standards shall be determined by use of a test procedures procedure as set forth in Section 276.204 and Section 276.205.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.202 Pollutants to be Tested - Exhaust Test

Vehicle exhaust emission test as set forth in this Part consists of sampling vehicle tailpipe concentrations of hydrocarbons (HC, as hexane), carbon monoxide (CO), and carbon dioxide (CO₂).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.203 Dilution - Exhaust Test

To prevent excess dilution in an exhaust emissions test, the sample probe shall be inserted a minimum of ten (10) inches into the vehicle's tailpipe. Extension boots shall be utilized if it is impossible to insert the sample probe at least ten (10) inches into the tailpipe. A vehicle emission test

shall be invalid if the applicable emission standards are met but the sum of the carbon monoxide and carbon dioxide concentrations in the exhaust gas does not exceed 68 during the sample averaging period(s).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.204 Exhaust Emissions Emission Test Procedures

a) Steady-State Idle Test 2599-RPM-Idle-Test
With the exception of those vehicles specified in paragraph (a) below, all vehicles shall be inspected using the 2599-RPM-Idle-Test procedure as set forth in Section 276.205(a).

1) Test Description
The steady-state idle test consists of a first-chance idle mode test followed, if necessary, by a second-chance test. The second-chance test consists of a high idle preconditioned mode while in neutral or park, followed immediately by an idle mode.

2) Engine Pre-Start
In addition to the test procedures of this Section, the engines of 1981-1987 model year Ford Motor Company vehicles and 1981-1985 model year Honda Preludes must be shut off for not more than ten seconds and restarted prior to initiating the idle mode of the second-chance test. The probe shall be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure.

b) Engine Restart 2449-RPM-Idle-Test-Alternative
All 1981- and later model year light-duty vehicles and light-duty trucks manufactured by Ford Motor Company and all 1984- and 1985- non fuel-injected Honda Preludes shall be inspected using the engine restart 2449-RPM-Idle-Test procedure as set forth in Section 276.205(b).

b) General Requirements
1) Tests shall be performed with Agency-approved equipment that has been calibrated according to the quality procedures contained in Section 276.302.

2) Vehicles with apparent leaks of fuel, oil, coolant, or exhaust shall not be tested.

3) Vehicles with missing tail pipe sections which would prohibit full insertion of an analyzer probe shall not be tested.

4) Vehicles shall be tested with their engines and emissions control systems at normal operating temperatures and not overheating (as indicated by gauge, temperature lamp, touch test on the radiator nose warning light, and/or boiling radiator).

5) Vehicles shall be tested without any accessories in operation.

6) Vehicles shall be tested with their transmissions in neutral or park.

7) For vehicles with multiple tailpipes, separate test results from

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each tailpipe shall be numerically averaged for each pollutant sampled unless equipment capable of simultaneously sampling multiple tailpipes is utilized.

c) Procedures

- 1) The analysis of exhaust gas concentrations must begin ten seconds after the applicable test mode begins.
- 2) Exhaust gas concentrations must be analyzed at a minimum rate of once every 0.75 second.
- 3) The measured value for the pass/fail determination shall be a simple running average of the measurements taken over five seconds.

- 4) With the exception of those vehicles specified in subsection (c)(5), the tachometer must be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

- 5) Vehicles that cannot continuously meet the engine speed requirements of subsection (e)(1)(B) within 30 seconds after initiation of the first-chance test shall be rejected upon verification of the proper operation and placement of the tachometer. If it is determined that the operation or placement of the tachometer is faulty, immediate corrective action shall be taken and the vehicle shall be retested in accordance with subsection (e).

- 6) If the engine speed falls outside the limits specified in subsections (e)(1)(B), (e)(2)(B), or (e)(2)(C), as applicable, for more than five seconds over all the excursions, the mode timer resets to zero and resumes timing.

- 7) For vehicles whose design prevents the monitoring of the engine rpm rate with a tachometer, the engine speed requirements of subsections (e)(1)(B), (e)(2)(B), and (e)(2)(C) shall not apply. The preconditioning mode of a second-chance idle test shall consist of accelerating the vehicle's engine to an estimated rate of 2500 rpm for a period of 30 seconds prior to initiating a second-chance idle mode test.

- 8) The sample probe must be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension must be used.

- 9) The measure concentration of CO plus CO(2) must be greater than or equal to 6 percent (6%) or the vehicle will be rejected.

- 10) Vehicles whose engine stalls at any time during the test sequence shall be rejected.

d) Pass/Fail Determination

A pass or fail determination is made for each applicable test mode based on a comparison of the test standards contained in 35 Ill. Adm. Code 240.124 with the measured value for hydrocarbons (HC) and carbon monoxide (CO) as described in subsection (c) of this Section. A vehicle passes the test mode if any pair of simultaneous measured values for HC and CO are below or equal to the applicable test

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standards. A vehicle fails the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above applicable standards.

e) Test Sequence

The steady-state idle test consists of a first-chance test and a second-chance test. The first-chance test consists only of an idle mode. The second-chance test consists of a preconditioning mode followed immediately by an idle mode, and is performed only if the vehicle fails the first-chance test.

1) First-Chance Test

- A) The test starts when the conditions specified in subsections (e)(1)(B) and (C) of this Section are met.

- B) The mode starts when the vehicle engine speed is between 350 and 1300 rpm. The minimum mode length is determined as described under subsection (e)(1)(C) of this Section.

- C) The pass/fail analysis begins after an elapsed time of ten seconds. A pass or fail determination is made for the vehicle and the mode is terminated in accordance with subsections (e)(1)(C)(i) through (iv) of this Section.

- i) The vehicle passes the idle mode and the test terminates on or before an elapsed time of 30 seconds, if the measured values are less than or equal to the applicable test standards as described in subsection (d) of this Section.

- ii) The pass/fail analysis shall continue beyond 30 seconds as long as emission readings are declining based upon comparison of the last five consecutive measured values. The vehicle passes the idle mode and the test is immediately terminated if, at any point between an elapsed time of 30 seconds and 90 seconds, the measured values are less than or equal to the applicable test standards described in subsection (d) of this Section.

- iii) The vehicle fails the first-chance test if the provisions of subsection (e)(1)(A), (e)(1)(C)(i), or (e)(1)(C)(ii) of this Section are not met.

- iv) The vehicle shall fail the first-chance test and the second-chance test shall be omitted if no measured values less than 180 ppm HC are found by an elapsed time of 30 seconds.

2) Second-Chance Test

- A) If the vehicle fails the first-chance test, a second-chance test is performed.

B) Preconditioning Mode

The mode starts when the engine speed is between 2200 and 2800 rpm, or between 1650 and 1950 rpm on specified vehicles equipped with 2F 4-speed Automatic Transmissions. The mode continues for an elapsed time of 30 seconds.

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Adm. Code 240, then it shall pass the fuel cap integrity test.

2) If the fuel cap cannot be tested using the fuel cap tester but can be tested for functionality under subsection (b)(2), then it shall pass the fuel cap integrity test if it appears to be functional.

3) If the fuel cap does not pass the test under the provisions of subsection (c)(1) or (2), the fuel cap shall fail the fuel cap integrity test.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.206 Engine and Fuel Type Modifications Tamper-Check-Procedures

In the inspection process, vehicles that have been altered from their original certified configuration are to be tested in the same manner as other subject vehicles. Specific procedures to be used are as follows:

a) Vehicles with engines other than the engine originally installed by the manufacturer or an identical replacement of such engine shall be subject to the test procedures and standards for the chassis type and model year of the vehicle.

b) Vehicles that have been switched from an engine of one fuel type to another fuel type that is subject to the program shall be subject to the test procedures and standards for the current fuel type, and to the requirements of subsection (a) of this Section.

2. Vehicles that are switched to a fuel type for which there is no certified configuration shall be tested according to the most stringent emitter standards established for that vehicle type and model year.

Beginning July 1, 1997, all vehicles of model year 1975 or later shall have a tamper-check performed as part of the emission inspection. The tamper-check shall consist of the following elements:

a) Catalyst-Converter Inspection

Vehicles will be inspected to visually determine the presence and location of a catalytic converter. It is required under Federal law to be installed on the vehicle at the time of manufacture. If a required catalytic converter is missing or does not appear to be correctly installed and properly functioning, the vehicle will be deemed to have failed the emission inspection.

b) Fuel-Cap Inspection

Visual inspection will be utilized to determine the presence and type of fuel cap. If the fuel cap is missing, the wrong size or is a vented fuel cap, the vehicle will be deemed to have failed the emission inspection.

c) Fuel-Inlet-Restrictor

Visual inspection will be utilized to determine the presence of a fuel inlet restrictor. It is required under Federal law to be installed on the vehicle at the time of manufacture. If the fuel inlet restrictor is

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present, its diameter will be measured by attempting to insert a 1/2 inch diameter gauge into the fuel inlet restrictor. If the gauge can be inserted through the restrictor, the fuel inlet restrictor is considered to be inoperable. If a required fuel inlet restrictor is missing or inoperable, the vehicle will be deemed to have failed the emission inspection. If the fuel inlet restrictor is missing or inoperable, the vehicle's catalytic converter is considered to be inoperable.

(Source: Section repealed, new Section added at 20 Ill. Reg. _____, effective _____)

SUBPART C: STICKER OR CERTIFICATE ISSUANCE, AND DISPLAY, AND

POSSESSION

Section 276.301 General Requirements

a) The owners of all vehicles subject to inspection shall obtain and display on the vehicle a valid unexpired vehicle emissions emission inspection sticker, if duly within the vehicle a valid unexpired vehicle emissions inspection certificate, whichever is required by the Agency of the type and issued in the manner described in this Section.

b) The owner of every vehicle which receives an emissions emission inspection sticker or certificate shall be required to have the vehicle inspected prior to the expiration date of the sticker or certificate, and shall be requested to have the vehicle inspected prior to the end of the Assigned Test Month its assigned test month.

c) Failure to comply with applicable the provisions of the Vehicle Emissions Inspection Law [625 ILCS 5/Ch. 13A] or the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/Ch. 13B] (11th Rev. Stat. 1-17-Chr. 45-1-27-Par. 13A-13B) shall subject the owner(s) owner of the vehicle to the enforcement provisions thereof.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.303 Emissions Inspection Sticker or Certificate Design and Content

All emissions emission inspection stickers or certificates required for display under this Section shall be of similar size and shape. Each sticker, except Example-Sticker shall, at a minimum, include the following information in a clear and recognizable fashion:

- the month and year the sticker or compliance certificate expires; Sticker expiration date
- the month and year in which the vehicle is scheduled for testing; and assigned test month
- a unique sticker or compliance certificate number serial number and

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d) ~~on indication of the type of sticker as specified in Sections 276-3047~~
~~276-306-276-307-and 276-308.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.304 Initial Emissions ~~Emission~~ Inspection Stickers or Certificates

The Initial Emissions Inspection Sticker or Certificate enables a vehicle not previously subject to inspection to display a valid sticker or possess a valid certificate within the vehicle to demonstrate compliance with the Vehicle Emissions Inspection Law or the Vehicle Emissions Inspection Law of 1995 pending such vehicle receiving an ~~such-vehicle's~~ initial emissions ~~emission~~ inspection. Such sticker or certificate shall be issued as follows:

- a) The Agency or its designee shall send Initial Emissions ~~Emission~~ Inspection Stickers or Certificates to owners of all vehicles initially subject to inspection no less than fifteen days prior to the first day of the month in which the vehicle is scheduled for its initial inspection. Each Initial ~~Emission~~ Inspection Sticker or Certificate shall expire on the last day of the third month following the month assigned by the Agency for the initial inspection.
- b) Each Initial Emissions ~~Emission~~ Inspection Sticker or Certificate shall include a notice of the assigned month of the initial emissions ~~emission~~ inspection and shall be accompanied by a clear statement from the Agency that, based on vehicle records, the vehicle is subject to applicable emissions ~~the-emission~~ inspection requirements of the Vehicle Emissions Inspection Law and the Vehicle Emissions Inspection Law of 1995, as applicable. A form accompanying the sticker or Certificate ~~explanation~~ will be provided to the vehicle owner to allow for correction of any information relied upon by the Agency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.305 Exempt Emissions ~~Inspection~~ Stickers or Certificates

- a) An Exempt Emissions Inspection Sticker or Certificate may ~~will~~ be issued by the Agency or its designee ~~for display on~~ each vehicle registered in an Affected County that either:

- 1) is exempt from emissions inspection pursuant to the requirements of Section 13B-15f ~~13B-104d~~ of the Vehicle Emissions Inspection Law of 1995; or
- 2) is exempt from emissions inspection pursuant to Section 13B-15(g) of the Vehicle Emissions Inspection Law of 1995, provided however, that in order to receive an exemption under Section 13B-15(g), the owner of the vehicle must provide sufficient proof to the Agency that the vehicle is not located and primarily operated within an Affected County.

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- b) Each Exempt Emissions Inspection Sticker or Certificate shall, at a minimum, include the following information in a clear and recognizable fashion:

- 1) A unique sticker or certificate serial number, and
- 2) the word "EXEMPT", and
- 3) the month and year the sticker or certificate expires, if applicable.

c) ~~the owner will be notified that an Exempt Sticker need not be displayed.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.306 Renewal Emissions Inspection Stickers or Certificates

A Renewal Emissions Inspection Sticker or Certificate will be issued by the Agency or its designee to the owner of ~~for display on~~ each vehicle which successfully passes a vehicle emissions test. Each Renewal Emissions Inspection Sticker or Certificate will contain the information indicated in Section 276.303 and the word "PASS".

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.307 Temporary Emissions Inspection Stickers or Certificates

- a) ~~The At-the-time-the-Agency-is-notified-by-the-Secretary-of-State-of-a vehicle's registration by a new owner--the Agency or its designee may issue a Temporary Emissions Emission Inspection Sticker or Certificate for any vehicle subject to inspection which does-not-have-a currently has a valid Renewal or Initial Emissions Inspection Sticker or Certificate emission--inspection--sticker, and for which an Initial Emissions Emission Inspection Sticker or Certificate has already been issued.~~

- b) A Temporary Emissions Inspection Sticker or Certificate may only be issued if the vehicle's owner informs the Agency that the vehicle will be tested by the end of the seventh month after the vehicle's Assigned Test Month, and one or more of the following conditions exist: ~~No Temporary-Emission-Inspection-Sticker-shall-be-effective-for-a-vehicle which has-a-voided-unrepaired-sticker.~~

- 1) the vehicle is located and being primarily operated in an area not currently subject to inspection under the Vehicle Emissions Inspection Law;
- 2) the vehicle is inoperative or has failed a vehicle emissions inspection and is awaiting necessary repairs to enable the vehicle to comply; or
- 3) the vehicle has not received necessary repairs or adjustments for which it is eligible under any emissions performance warranty

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provided pursuant to Section 207 of the Clean Air Act.

- c) A Temporary Emissions Inspection Sticker or Certificate shall be issued and contain a sticker or certificate expiration date which is the end of the seventh complete month after the Assigned Test Month. The Agency or its designee shall assign an emissions inspection test date for each vehicle receiving a temporary emissions inspection sticker and shall send notice of such test date to the vehicle owner not less than fifteen days prior to the beginning of the assigned test month.
- d) A Temporary Emissions Inspection Sticker or Certificate may only be issued to the owner of a vehicle once in the vehicle's test cycle. Each temporary emissions inspection sticker shall expire on the last day of the fourth complete calendar month after the date the Agency is notified by the Secretary of State of the registration of the vehicle by a new owner, but not earlier than the end of the second complete calendar year after the vehicle's model year.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.308 Corrected or Interim Emissions Inspection Stickers or Certificates

Vehicles subject to emissions emission inspection which have previously been issued an Initial Emissions Inspection Sticker or Certificate and which have an Assigned Test Month assigned test date may be reassigned to a later Assigned Test Month test date. Whenever such reassignment is approved by the Agency, the Agency or its designee shall issue a Corrected or Interim Emissions Inspection Sticker or Certificate to the owner of the for such vehicle.

- a) The Agency shall issue a Corrected or Interim Emissions Inspection Sticker or Certificate for a vehicle if one or more of the following conditions exist: Corrected Inspection Stickers shall be issued only to vehicles which cannot be tested during a period commencing with the first day of the assigned test month and ending with the expiration date of the current inspection sticker upon a claim by an owner that one or more of the following circumstances exist:
- 1) the Agency is notified by the Secretary of State that the vehicle has been registered by a new owner and the Agency assigns a test month for the vehicle that is later than the currently Assigned Test Month in order for the registered owner of the vehicle to receive proper notice to have the vehicle tested; the vehicle is not within a one hundred mile radius of an affected county;
 - 2) the Agency finds it necessary to reassign vehicles to a later Assigned Test Month and year in order to implement the Vehicle Emissions Inspection Law of 1995; or the vehicle is inoperative or necessary repairs are unavoidable;
 - 3) the vehicle is assigned a new test month and year as a result of the granting of a petition pursuant to Section 276.311. The

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vehicle has not completed with the vehicle exhaust emission standards and has not yet received repairs and adjustments for which it is eligible under any emissions performance warranty provided pursuant to Section 207 of the Clean Air Act (42 U.S.C. 7401 et seq.).

- 4) The vehicle owner or operator is incapacitated.
- b) All Each Corrected or Interim Emissions Inspection Stickers or Certificates Sticker shall expire at on the end test day of the third month following the assigned test month of the reassigned emission inspection test date.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.309 Waiver Emissions Inspection Stickers or Certificates

A Waiver Emissions Inspection Sticker or Certificate waiver sticker shall be issued by the Agency to the owner of for display on any vehicle which fails a vehicle emissions emission test and at least one retest but successfully complies with the applicable waiver requirements of the Vehicle Emissions Inspection Law and Section 276.401. Each Waiver Emissions Inspection Sticker or Certificate waiver sticker will contain the information indicated in Section 276.303 and the word "WAIVER".

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.310 Emissions Inspection Sticker and Certificate Display and Possession

- a) If an emissions Any-emission inspection sticker required by this Part is issued by the Agency or its designee to the owner of a vehicle, it Section shall be affixed to the lower left hand side of the vehicle's windshield as viewed by the driver facing toward towards the front of the vehicle. Such sticker shall be affixed so as not to obscure the Vehicle Identification Number (VIN) of the vehicles when viewed from the outside. No more than one emission inspection sticker shall be displayed at any time. If an emissions inspection certificate required by this Part is issued by the Agency or its designee, it shall be carried inside the vehicle for which it is issued.
- b) Any sticker or certificate issued and required to be affixed to or possessed within a non-exempt vehicle subject to inspection under the Vehicle Emissions Inspection Law, whether expired or unexpired, shall not be removed by any person for any reason prior to its date of expiration. If the sticker or certificate is damaged or destroyed a duplicate sticker or certificate shall be requested from the Agency or its designee and issued to the owner of the vehicle.
- c) Persons engaged in the business of buying and selling vehicles need

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following:

- a) ~~the~~ the vehicle has failed to comply with the applicable vehicle exhaust emission standards for hydrocarbons (HC, as hexane) and/or carbon monoxide (CO) ~~on its initial inspection; and~~
- b) ~~a~~ A low emissions tuneup (in accordance with the provisions set forth in Section 276.402) has been performed on the vehicle no more than 30 days prior to the request for waiver; and
- c) ~~if~~ the vehicle has received all repairs and adjustments for which it is eligible ~~for coverage~~ under any ~~the~~ emission performance warranty provisions pursuant to ~~of~~ Section 207(b) of the Clean Air Act (42 U.S.C. 7541) ~~by the operator of the vehicle presents a written explanation from the person who performed the repairs documenting why such coverage was denied; and~~
- d) ~~the~~ the vehicle has been retested and failed levels of exhaust emissions as measured during the final retest have shown improvement as compared with the initial test results; and ~~if the vehicle is a 1975 or later model year, the State inspector has determined that the vehicle has a properly functioning catalytic converter (if required to be installed under Federal law at the time of its manufacture) that meets or exceeds the required to be installed under Federal law at the time of its manufacture and a properly functioning gas cap; and~~
- e) ~~the~~ the Agency determines by normal inspection procedures that the emission control devices with which the vehicle was originally equipped or direct replacements are present and appear to be properly connected and operating, provided however, that vehicles with emission control devices which are obsolete and cannot be obtained through the original equipment manufacturer, aftermarket manufacturers or suppliers of used parts are exempt from the requirements of this subsection. Specific reporting requirements with regard to the unavailability of emission control devices shall be completed by the vehicle owner and presented to the Agency as may be specified. ~~if during the course of a waiver inspection, the State inspector determines that a 1975 or later model year vehicle that is not registered as required by Section 242 of the Clean Air Act is missing a catalytic converter that is required to be installed on the vehicle, the converter has been replaced with a comparable and properly functioning new or rebuilt catalytic converter and the fuel intake restrictor has been replaced or replaced and~~

~~if~~ the vehicle has been reinspected and has again failed to comply with the applicable vehicle exhaust emission standards, provided, however, that if the vehicle has already received two reinspections, no further inspection is required;

f) Notwithstanding anything to the contrary herein, neither a waiver of the vehicle emissions exhaust emission standards nor an emissions emission inspection sticker or certificate may be issued for a vehicle of model year 1975 or later, except to the extent that the Procedures set forth in Section 276.402 if such vehicle has not passed the applicable evaporative system integrity test is not

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~~not maintain valid unexpired stickers on vehicles under their ownership which are not registered under Chapter 37 Article IV of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, Ch. 95-1-27, par. 3-19a-2) or provided that no emission inspection sticker other than an Exempt Sticker shall be removed from such vehicle whether expired or unexpired;~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.311 Petition to Change of Assigned Test Month Dates

Any person who is unable to have his or her vehicle be tested in the month assigned by the Agency to him or her may request petition the Agency for a permanent change of in the Assigned Test Month, test month and expiration date. Such request shall be granted if the petition includes a signed statement that the vehicle will be driven in the State in the assigned test month and two months thereafter and the reasons therefor. The Agency may grant the request, shall reassign the vehicle's assigned test month, and expiration date and issue a Official Emissions Inspection Sticker or Certificate as follows appropriate stickers according to the following:

- a) if a vehicle is unable to be tested by the end of the seventh month after its Assigned Test Month, and is not eligible for an exemption under Section 276.305 nor covered by reciprocity under Subpart J, a new test month will be assigned based on the month the vehicle will return to an Affected County; and the Agency shall assign an earlier test month and expiration date and issue a new emission inspection sticker unless a request is made to have no assignment on either test month;
- b) if the vehicle is in storage during the month of October, November, December, January, February or March, the vehicle will be assigned a test month of the following April, May, or June if the request is received prior to the 15th day of the month of the expiration date. If a request is received on or after the 15th day of the month of the expiration date, the assigned test month and expiration date shall be the same as the assigned test month and expiration date and issue a new emission inspection sticker;

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBJECT 3: WAIVER REQUIREMENTS

Section 276.401 General Requirements

All vehicles subject to inspection under the Vehicle Emissions Inspection Law shall be eligible for a waiver from the vehicle exhaust emission standards contained in 35 Ill. Adm. Code 240 upon submission of proof (as outlined in Section 276.402(b)) to a State Inspector of compliance with all of the

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equipped with a properly-functioning catalytic converter, fuel inlet restrictor and gas cap contained in this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.402 Low Emissions Tuneups

a) Minimum Requirements

- 1) All low emissions tuneups shall include inspection of the following vehicle components or systems:

- A) all Air cleaners elements;
- B) all Air other intake restrictions;
- C) choke choke mechanism;
- D) idle idle speed, ignition dwell, and timing;
- E) air-fuel Air-fuel mixture;
- F) sensors Sensors and vacuum hoses;
- G) Positive Positive crankcase ventilation (PCV) system;
- H) Exhaust Exhaust gas recirculation (EGR) system;
- I) Spark Spark plugs and spark plug wires;
- J) electronic Electronic fuel metering and feedback control system;
- K) air Air pump.

- 2) Any of the above components or systems which are found to be operating improperly shall be adjusted, repaired, or replaced, as appropriate.

- 3) A low emissions tuneup shall not require a major engine overhaul, including all repairs which require: A) access to the combustion chamber (except for spark plug or fuel injection equipment replacement as applicable); and/or

- B) complete replacement of the carburetor(s) or of fuel injector(s) except for repair or replacement of carburetor or injector part.

b) Proof of Low Emissions Tuneups

Proof of low emissions tuneups necessary to satisfy the requirements in Section 276.401(b) shall consist of the following:

- 1) a repair order or receipt(s) provided by the person performing the repairs if the low emissions tuneup was performed by a mechanic; the operator of the vehicle shall submit a receipt to the Agency setting forth the name and address of the mechanic; the date of the repairs tuneup; a certification by the mechanic that all requirements set forth in Section 276.402(a) have been completed; an itemization of all diagnoses, repairs, adjustments, and part replacements; a statement of cost; and the signature of the person mechanic who performed the repairs; tuneup.

- 2) if necessary, a visual inspection of the vehicle to determine if the repairs have actually been performed; and if the low

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emissions tuneup was performed by the operator of the vehicle or by a person who is not a mechanic; the operator of the vehicle shall submit a statement to the Agency setting forth the name and address of the person who performed the tuneup, the date of the tuneup, a certification by the operator of the vehicle that all requirements set forth in Section 276.402(a) have been completed; an itemization of all repairs, adjustments, and part replacements; a statement of cost; if any, including receipts for all parts purchased; and the signature of the person who performed the repairs.

- 3) For purposes of certification and documentation requirements in subsections (1) and (2) above, all information requested on the reverse side of the Vehicle Inspection Report must be completed.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART E: TEST EQUIPMENT EXHAUST-GAS ANALYZER SPECIFICATIONS

Section 276.501 General Requirements

Compliance with Illinois vehicle exhaust and evaporative emissions standards shall be determined by sampling vehicle exhaust and evaporative emissions with the following: non-dispersive infra-red (NDIR) exhaust gas analyzers

- a) Steady-state idle test equipment meeting the specifications specification set forth in Sections 276.502 and 276.503.
- b) Evaporative system test equipment meeting the specifications set forth in Section 276.504 if the fuel cap leak flow test is used.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.502 Functional Requirements - Steady-State Idle Test Exhaust Analysis Systems

- a) All exhaust gas analyzers shall be capable of sampling and measuring motor vehicle exhaust concentrations of hydrocarbons (HC), carbon monoxide (CO), and carbon dioxide (CO₂) during idle and high-idle vehicle operating conditions.

- b) All exhaust gas analyzers used at Official Inspection Stations shall be capable of performing the following additional functions (this subsection (b) does not apply to testing conducted pursuant to Subpart G -- Fleet Testing Requirements):

- 1) providing Providing reliable, continuous service under high throughput (i.e., 25 tests per hour minimum) conditions;
- 2) Providing Providing for the automatic selection of the proper emission standard for each vehicle tested;

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- 3) providing Providing for an automatic pass/fail determination for each vehicle tested;
- 4) recording Recording of test data in machine-readable (computer) form for subsequent data processing and analysis;
- 5) providing Providing for instantaneous printing of duplicate copies of test results; and
- 6) providing Providing for the following quality assurance/quality control features:
 - A) automatic Automatic HC hangup check with purging to begin upon completion of each test;
 - B) automatic Automatic zero and electrical span to be conducted prior to each test;
 - C) automatic Automatic leak check capability with provisions for weekly checks pursuant to requirements of the U.S. Environmental Protection Agency as set forth in 40 CFR 85, Subpart W; and
 - D) automatic Automatic span gas calibration.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.503 Performance Criteria - Steady-State Idle Test Exhaust Analysis Systems

All exhaust gas analyzers shall meet the following criteria:

- a) Accuracy

The accuracy of all exhaust gas analyzers shall be within the following limits:

 - 1) HC (as hexane):

0 - 400 ppm + 12 ppm
(parts per million)
400 - 1000 ppm + 30 ppm
1000 - 2000 ppm + 60 ppm
 - 2) CO:

0-2% ± 0.06%
2-5% ± 0.15%
5-10% ± 0.30%
0-10% ± 0.5%
10-14% ± 0.9%
 - 3) CO[2]:

0-2% ± 0.06%
2-5% ± 0.15%
5-10% ± 0.30%
0-10% ± 0.5%
10-14% ± 0.9%
- b) Response Time

The response time of all exhaust gas analyzers shall be eight (8) seconds to 90% of the final reading.
- c) Drift

The zero and span drift of all exhaust gas analyzers shall not exceed ± 15 ppm HC, ± 0.1% CO, and ± 0.5% CO[2], during a one hour period.
- d) Interference Effects
 - 1) HC measurements shall not deviate more than ± 10 ppm when sampling the following concentrations of non-interest gases:

15% CO[2] in N[2]
10% CO in N[2]

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- 3000 ppm NO in N[2]
- 10% O[2] in N[2]
- 3% H[2]O vapor in air
- 2) CO measurements shall not deviate more than ± 0.05% when sampling the following concentrations of non-interest gases:

15% CO[2] in N[2]
1600% ppm HC in N[2]
3000 ppm NO in N[2]
10% O[2] in N[2]
3% H[2]O vapor in air
- 3) CO[2] measurements shall not deviate more than ± 0.5% when sampling the following concentrations of non-interest gases:

1600% ppm HC in N[2]
10% CO in N[2]
3000 ppm NO in N[2]
10% O[2] in N[2]
3% H[2]O vapor in air

e) Sensitivity
 The sensitivity of all exhaust gas analyzers shall be 1 ppm HC, 0.01% CO, and 0.01% CO[2].

f) Repeatability

The repeatability of all exhaust gas analyzers shall be within ± 10 ppm HC, ± 0.5% CO, and ± 0.2% CO[2], during 5 successive measurements of the same sample.

g) Range of Measurement

All exhaust gas analyzers shall have a range of 0 - 2000 ppm HC, 0 - 10% CO, and 0 - 16% CO[2].

h) Temperature Operating Range

All exhaust gas analyzers shall conform to all specifications in ambient temperatures of 35 to 110 degrees Fahrenheit.

i) Temperature Stability

With gas calibrated at 75 degrees Fahrenheit, full scale (FS) error of all exhaust gas analyzers shall not exceed ± 4% within an operating range of + 55 degrees Fahrenheit to + 95 degrees Fahrenheit, with no adjustments other than adjustments for zero and mechanical span.

j) Humidity Operating Range

All exhaust gas analyzers shall conform to all specifications from 0% to 85% relative humidity.

k) Calibration

All exhaust gas analyzers shall have the capability of electronic and gas calibration.

l) Flow Restriction Indication

All exhaust gas analyzers shall be operated within manufacturer's specifications for sample flow. The sampling system shall be equipped with visual and/or audible warning that the sample flow is not within operating limits.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 276.504 Functional Requirements and Performance Criteria - Evaporative System Integrity Test (Fuel Cap Leak Flow Tester)

Fuel cap leak flow testers (fuel cap testers) used for evaporative system integrity testing shall be:

- a) easily connected to fuel caps, including those tethered to the vehicle;
- b) compatible with at least 95 percent of all vehicles required to receive a fuel cap test;
- c) adaptable as required to test future model year vehicles as they enter the eligible fleet;
- d) capable of performing the following additional functions (if used at Official Inspection Stations):

- 1) provide reliable, continuous service under high throughput (i.e., 25 tests per hour minimum) conditions;
- 2) provide for the automatic selection of the proper fuel cap test equipment (if applicable) for each vehicle tested;
- 3) provide for an automatic pass/fail determination for each vehicle tested;

- 4) record test data in machine-readable (computer) form for subsequent data processing and analysis; and
- 5) provide for instantaneous printing of duplicate copies of test results;

- e) unaffected by atmospheric variation (i.e., barometric pressure, humidity, temperature, etc.). Test accuracy shall be within 2% of stated values from 0°F to 120°F;

- f) limited to a maximum test time of ten (10) seconds in duration from depression of start-test button to pass/fail determination;

- g) capable to be modified, either by the manufacturer or an authorized service center, to test at a revised leakage (flow) rate from that originally shipped.

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART F: EQUIPMENT MAINTENANCE AND CALIBRATION

Section 276.601 Maintenance - Steady-State Idle Test Equipment

All operators of exhaust gas analyzers shall conduct a preventive maintenance and quality control program consisting of the following elements:

- a) an HC hang-up check conducted ~~checking procedures~~ prior to each test and after the last test of the day; HC hang-up shall not exceed 20 ppm HC prior to any test;
- b) visual ~~visual~~ inspection of all equipment prior to the first test of the day;

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- c) performance ~~Performance~~ of analyzer preventative maintenance, (e.g., filter replacement, inspection and cleaning of probes, sample lines, water traps, etc.) according to manufacturer's recommended schedules and as needed; and
- d) all ~~all~~ calibration and operating procedures specified in Section 276.602~~at~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.602 Calibration - Steady-State Idle Test Equipment

- a) General Exhaust Gas Analyzer Calibration and Operating Requirements
All operators of exhaust gas analyzers shall comply with the following calibration and operating procedures, unless alternative procedures have been approved by the Agency:

- 1) exhaust ~~Exhaust~~ gas analyzers shall be warmed up prior to each vehicle inspection, zero check, span check, or calibration. Analyzers shall be considered to be in a warmed-up condition once stabilized ~~ref.~~ readings (readings stabilize for one minute within 2% of full scale, low range on all three channels) are obtained;

- 2) if ~~if~~ the sampling flow restriction indicator is activated during any vehicle inspection, the inspection shall be discontinued. No new inspections shall be performed until necessary repairs to the exhaust gas analyzer have been completed;

- 3) exhaust ~~Exhaust~~ gas analyzers shall be zeroed and spanned within 60 minutes of each vehicle inspection. Ambient air may be utilized as a zero gas. Either electronic or gas spanning may be utilized;

- 4) exhaust ~~Exhaust~~ gas analyzers shall be tested for sampling system leaks prior to the first vehicle emissions ~~emission~~ inspection each day. Leak checks and gas span checks may be combined into one operation;

- 5) exhaust ~~Exhaust~~ gas analyzers shall be gas spanned and adjusted (if the analyzer response exceeds 2% of span gas value or exceeds .05% CO and 6 ppm HC), prior to the first vehicle emissions ~~emission~~ inspection each day;

- 6) except ~~except~~ as provided in subsection (a)(7) of this Section, gas spanning and adjustment shall be performed with a low range gas blend as specified in subsection (b) of this Section;

- 7) exhaust ~~Exhaust~~ gas analyzers may be gas spanned and adjusted with high range gases provided that analyzers are immediately checked with low range gases to ensure compliance with U.S. Environmental Protection Agency requirements as set forth in 40 CFR 85, Subpart W (1984);

- 8) multi-point ~~Multi-point~~ calibration shall be performed within 30

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- days of each vehicle inspection; and:
- 9) multi-point ~~multi-point~~ calibration shall be performed following the replacement of any optical or electronic components which may cause variation in measurements, before the next vehicle inspection may be conducted.
 - b) Span, Calibration, and Audit Gases
All gases utilized for exhaust gas analyzer spanning, calibration, and auditing shall be traceable to a National Institute of Standards and Technology (NIST) ~~Bureau of Standards (NBS)~~ gas ~~+2%~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.603 Maintenance and Calibration - Evaporative System Integrity Test (Fuel Cap Leak Flow Tester) Record-Keeping

Relevant parameters of the fuel cap leak flow tester shall be inspected and their pass/fail accuracy shall be verified at the beginning of each operating day and after _____ use each day. A fuel cap leak flow tester which fails an inspection shall be removed from service until repaired and its accuracy verified.

(Source: Section 276.603 renumbered to Section 276.604 and new Section 276.603 added at 20 Ill. Reg. _____, effective _____)

Section 276.604 276.603 Record Keeping

All operators of emissions test equipment ~~exhaust-gas analyzers~~ shall maintain written records of all maintenance and calibration performed on such equipment. Said records shall be kept on site for a period of two years and shall be made available to the Agency upon request.

(Source: Renumbered from Section 276.603 and amended at 20 Ill. Reg. _____, effective _____)

SUBPART G: FLEET SELF TESTING REQUIREMENTS

Section 276.701 General Requirements

- a) Any owner or lessee of a fleet of 15 or more ~~non-exempt~~ vehicles subject to inspection may apply to the Agency for a permit to establish and operate a Private Official Inspection Station (Fleet Inspection Station) ~~(fleet-inspection station)~~.
- b) If a fleet inventory vehicle is tested at an Official Inspection Station pursuant to Section 276.703(a)(3), it shall be required to receive the same emissions tests and receive the same test results as other vehicles tested at an Official Inspection Station, including the

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fuel cap integrity test in accordance with the provisions of Section 276.205. If a fleet inventory vehicle is tested at a Fleet Inspection Station, it shall receive an exhaust emissions test and a visual fuel cap test.

- c) If the Agency substantially amends emissions inspection standards, procedures, or other requirements, it may require ~~emissions~~ inspectors to be re-certified and Fleet Inspection Stations to be re-permitted.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.702 Fleet Inspection Station Permit

The Agency shall issue Fleet Inspection Station ~~fleet--inspection~~ permits to eligible applicants upon a showing of compliance with the following requirements:

- a) Equipment
All fleet inspections shall be conducted utilizing exhaust gas analyzers and tachometers. Exhaust gas analyzers shall meet the requirements set forth in Section 276.501 and Subpart F.
- b) Training

Each fleet inspector shall be required to complete and pass a training course given ~~offered~~ by the Agency covering the following topics:

- 1) I/M rules and regulations;
- 2) testing test procedures;
- 3) analyzer Analyzer use;
- 4) analyzer Analyzer calibration and quality control; and
- 5) data data recording, record keeping and submittal.

~~Authorization--shall require a demonstration of proficiency-based-upon written examination and hands-on demonstration:~~

- c) General Fleet Inspector Station Permit Requirements
 - 1) Fleet Inspector Station Permits shall expire two years after the date of issuance.
 - 2) Fleet Inspection Station permits are ~~permits--shall not be~~ transferable.
 - 3) Any change in the name and/or address of any the permittee or any fleet the inspector(s) employed by the permittee shall be reported to the Agency in writing on forms provided by the Agency within 30 days of the change.
 - 4) A separate permit is required for each Fleet Inspection Station ~~fleet~~.

- d) Fleet Inspection Station Permit Suspension and Revocation
For the following reasons, the the Agency may suspend for a period of up to two years or revoke, with the permittee being ineligible to reapply for two years, a Fleet Inspection Station ~~fleet--inspection~~ permit ~~for the following reasons:~~
 - 1) the the permittee has violated any provision of this rule;

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- 2) the permittee has provided false or misleading information in its application for a Fleet Inspection Station permit; fleet inspection permit;
- 3) the permittee has failed to keep proper records as required by the Agency in that:
 - i) the permittee has failed to notify the Agency of a vehicle's emissions test results within 45 days after the date of inspection;
 - ii) the permittee has failed to notify the Agency that a vehicle has been deleted from its vehicle inventory within 60 days after the vehicle's disposal; or
 - iii) 20 percent of the vehicles in the permittee's fleet have expired compliance stickers or certificates;
- 4) the permittee has misrepresented any information provided in fleet vehicle logs, vehicle inspection reports, and/or equipment maintenance and calibration reports;
- 5) the number of vehicles subject to inspection in the permittee's fleet becomes less than 15.

(Source: Amended at 20)
 Ill. Reg. _____, effective _____

Section 276.703 Fleet Inspection Station Operating Requirements

- a) Vehicle Eligibility
 - 1) The prior-to-any-inspection--the permittee shall furnish the Agency with a list of all vehicles subject to for--which--fleet inspection and for which fleet inspection is requested. The Agency shall provide forms as--required to register--vehicles the permittee for the purpose of establishing a fleet vehicle inventory and requesting vehicle inspection dates. The information shall be submitted to the Agency either on the forms supplied, or by electronic media in the format required by the Agency. When the Agency approves or denies the fleet vehicle inspection dates, it shall notify the fleet tester and, if approved, provide test forms to the fleet for submission to the Agency after testing fleet-inspection.
 - 2) The permittee shall notify the Agency in writing on forms provided by the Agency or by electronic media in the format required by the Agency in the event that any eligible vehicles are sold or otherwise removed from fleet service. This said notification shall be made within 30 days of the end of the month date the vehicle is removed from fleet service.
 - 3) Unless authorized by the Agency, vehicles contained in the fleet vehicle inventory registered pursuant to subsection Section (a)(2) of this Section shall only be inspected at Fleet Inspection Stations fleet-inspection-stations.
- b) Inspection Frequency/Scheduling
 - 1) Inspection stickers of certificates for all vehicles complying with program requirements. If the Agency determines that a vehicle inspection report is deficient, a sticker or certificate will not be issued and it shall return the inspection report along with instructions to correct the identified deficiencies.
 - 3) The permittee shall be responsible for the security and accountability of all vehicle inspection stickers or certificates issued to the permittee. In the event of lost or stolen stickers or certificates, the permittee shall notify the Agency in writing within ten business days. Failure to report missing stickers or certificates shall be grounds for suspension or revocation of a Fleet Inspection Station Permit fleet--inspection permit.
 - 4) Inspection stickers or certificates shall be displayed or possessed in accordance with Section 276.309.
 - 5) The permittee shall retain a legible copy of each completed Vehicle Inspection Report at the Fleet Inspection Station fleet inspection-station for a minimum of two years after the date of applicable inspection date. The reports shall be made available for Agency review upon request during normal business hours.
- d) Equipment, Maintenance and Calibration
 - 1) All exhaust gas analyzers and tachometers shall be maintained in good working order in accordance with manufacturer's specifications.
 - 2) All exhaust gas analyzers shall be calibrated utilizing

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All eligible fleet-inspection vehicles in the fleet inventory shall be inspected biennially in accordance with the current schedule forth in the Vehicle Emissions Inspection and Test Law that prevails. Such vehicles shall be inspected in the following order: (1) vehicles with a 1975-1976 model year; (2) vehicles with a 1977-1978 model year; (3) vehicles with a 1979-1980 model year; (4) vehicles with a 1981-1982 model year; (5) vehicles with a 1983-1984 model year; (6) vehicles with a 1985-1986 model year; (7) vehicles with a 1987-1988 model year; (8) vehicles with a 1989-1990 model year; (9) vehicles with a 1991-1992 model year; (10) vehicles with a 1993-1994 model year; (11) vehicles with a 1995-1996 model year; (12) vehicles with a 1997-1998 model year; (13) vehicles with a 1999-2000 model year; (14) vehicles with a 2001-2002 model year; (15) vehicles with a 2003-2004 model year; (16) vehicles with a 2005-2006 model year; (17) vehicles with a 2007-2008 model year; (18) vehicles with a 2009-2010 model year; (19) vehicles with a 2011-2012 model year; (20) vehicles with a 2013-2014 model year; (21) vehicles with a 2015-2016 model year; (22) vehicles with a 2017-2018 model year; (23) vehicles with a 2019-2020 model year; (24) vehicles with a 2021-2022 model year; (25) vehicles with a 2023-2024 model year; (26) vehicles with a 2025-2026 model year; (27) vehicles with a 2027-2028 model year; (28) vehicles with a 2029-2030 model year; (29) vehicles with a 2031-2032 model year; (30) vehicles with a 2033-2034 model year; (31) vehicles with a 2035-2036 model year; (32) vehicles with a 2037-2038 model year; (33) vehicles with a 2039-2040 model year; (34) vehicles with a 2041-2042 model year; (35) vehicles with a 2043-2044 model year; (36) vehicles with a 2045-2046 model year; (37) vehicles with a 2047-2048 model year; (38) vehicles with a 2049-2050 model year; (39) vehicles with a 2051-2052 model year; (40) vehicles with a 2053-2054 model year; (41) vehicles with a 2055-2056 model year; (42) vehicles with a 2057-2058 model year; (43) vehicles with a 2059-2060 model year; (44) vehicles with a 2061-2062 model year; (45) vehicles with a 2063-2064 model year; (46) vehicles with a 2065-2066 model year; (47) vehicles with a 2067-2068 model year; (48) vehicles with a 2069-2070 model year; (49) vehicles with a 2071-2072 model year; (50) vehicles with a 2073-2074 model year; (51) vehicles with a 2075-2076 model year; (52) vehicles with a 2077-2078 model year; (53) vehicles with a 2079-2080 model year; (54) vehicles with a 2081-2082 model year; (55) vehicles with a 2083-2084 model year; (56) vehicles with a 2085-2086 model year; (57) vehicles with a 2087-2088 model year; (58) vehicles with a 2089-2090 model year; (59) vehicles with a 2091-2092 model year; (60) vehicles with a 2093-2094 model year; (61) vehicles with a 2095-2096 model year; (62) vehicles with a 2097-2098 model year; (63) vehicles with a 2099-2100 model year; (64) vehicles with a 2101-2102 model year; (65) vehicles with a 2103-2104 model year; (66) vehicles with a 2105-2106 model year; (67) vehicles with a 2107-2108 model year; (68) vehicles with a 2109-2110 model year; (69) vehicles with a 2111-2112 model year; (70) vehicles with a 2113-2114 model year; (71) vehicles with a 2115-2116 model year; (72) vehicles with a 2117-2118 model year; (73) vehicles with a 2119-2120 model year; (74) vehicles with a 2121-2122 model year; (75) vehicles with a 2123-2124 model year; (76) vehicles with a 2125-2126 model year; (77) vehicles with a 2127-2128 model year; (78) vehicles with a 2129-2130 model year; (79) vehicles with a 2131-2132 model year; (80) vehicles with a 2133-2134 model year; (81) vehicles with a 2135-2136 model year; (82) vehicles with a 2137-2138 model year; (83) vehicles with a 2139-2140 model year; (84) vehicles with a 2141-2142 model year; (85) vehicles with a 2143-2144 model year; (86) vehicles with a 2145-2146 model year; (87) vehicles with a 2147-2148 model year; (88) vehicles with a 2149-2150 model year; (89) vehicles with a 2151-2152 model year; (90) vehicles with a 2153-2154 model year; (91) vehicles with a 2155-2156 model year; (92) vehicles with a 2157-2158 model year; (93) vehicles with a 2159-2160 model year; (94) vehicles with a 2161-2162 model year; (95) vehicles with a 2163-2164 model year; (96) vehicles with a 2165-2166 model year; (97) vehicles with a 2167-2168 model year; (98) vehicles with a 2169-2170 model year; (99) vehicles with a 2171-2172 model year; (100) vehicles with a 2173-2174 model year; (101) vehicles with a 2175-2176 model year; (102) vehicles with a 2177-2178 model year; (103) vehicles with a 2179-2180 model year; (104) vehicles with a 2181-2182 model year; (105) vehicles with a 2183-2184 model year; (106) vehicles with a 2185-2186 model year; (107) vehicles with a 2187-2188 model year; (108) vehicles with a 2189-2190 model year; (109) vehicles with a 2191-2192 model year; (110) vehicles with a 2193-2194 model year; (111) vehicles with a 2195-2196 model year; (112) vehicles with a 2197-2198 model year; (113) vehicles with a 2199-2200 model year; (114) vehicles with a 2201-2202 model year; (115) vehicles with a 2203-2204 model year; (116) vehicles with a 2205-2206 model year; (117) vehicles with a 2207-2208 model year; (118) vehicles with a 2209-2210 model year; (119) vehicles with a 2211-2212 model year; (120) vehicles with a 2213-2214 model year; (121) vehicles with a 2215-2216 model year; (122) vehicles with a 2217-2218 model year; (123) vehicles with a 2219-2220 model year; (124) vehicles with a 2221-2222 model year; (125) vehicles with a 2223-2224 model year; (126) vehicles with a 2225-2226 model year; (127) vehicles with a 2227-2228 model year; (128) vehicles with a 2229-2230 model year; (129) vehicles with a 2231-2232 model year; (130) vehicles with a 2233-2234 model year; (131) vehicles with a 2235-2236 model year; (132) vehicles with a 2237-2238 model year; (133) vehicles with a 2239-2240 model year; (134) vehicles with a 2241-2242 model year; (135) vehicles with a 2243-2244 model year; (136) vehicles with a 2245-2246 model year; (137) vehicles with a 2247-2248 model year; (138) vehicles with a 2249-2250 model year; (139) vehicles with a 2251-2252 model year; (140) vehicles with a 2253-2254 model year; (141) vehicles with a 2255-2256 model year; (142) vehicles with a 2257-2258 model year; (143) vehicles with a 2259-2260 model year; (144) vehicles with a 2261-2262 model year; (145) vehicles with a 2263-2264 model year; (146) vehicles with a 2265-2266 model year; (147) vehicles with a 2267-2268 model year; (148) vehicles with a 2269-2270 model year; (149) vehicles with a 2271-2272 model year; (150) vehicles with a 2273-2274 model year; (151) vehicles with a 2275-2276 model year; (152) vehicles with a 2277-2278 model year; (153) vehicles with a 2279-2280 model year; (154) vehicles with a 2281-2282 model year; (155) vehicles with a 2283-2284 model year; (156) vehicles with a 2285-2286 model year; (157) vehicles with a 2287-2288 model year; (158) vehicles with a 2289-2290 model year; (159) vehicles with a 2291-2292 model year; (160) vehicles with a 2293-2294 model year; (161) vehicles with a 2295-2296 model year; (162) vehicles with a 2297-2298 model year; (163) vehicles with a 2299-2300 model year; (164) vehicles with a 2301-2302 model year; (165) vehicles with a 2303-2304 model year; (166) vehicles with a 2305-2306 model year; (167) vehicles with a 2307-2308 model year; (168) vehicles with a 2309-2310 model year; (169) vehicles with a 2311-2312 model year; (170) vehicles with a 2313-2314 model year; (171) vehicles with a 2315-2316 model year; (172) vehicles with a 2317-2318 model year; (173) vehicles with a 2319-2320 model year; (174) vehicles with a 2321-2322 model year; (175) vehicles with a 2323-2324 model year; (176) vehicles with a 2325-2326 model year; (177) vehicles with a 2327-2328 model year; (178) vehicles with a 2329-2330 model year; (179) vehicles with a 2331-2332 model year; (180) vehicles with a 2333-2334 model year; (181) vehicles with a 2335-2336 model year; (182) vehicles with a 2337-2338 model year; (183) vehicles with a 2339-2340 model year; (184) vehicles with a 2341-2342 model year; (185) vehicles with a 2343-2344 model year; (186) vehicles with a 2345-2346 model year; (187) vehicles with a 2347-2348 model year; (188) vehicles with a 2349-2350 model year; (189) vehicles with a 2351-2352 model year; (190) vehicles with a 2353-2354 model year; (191) vehicles with a 2355-2356 model year; (192) vehicles with a 2357-2358 model year; (193) vehicles with a 2359-2360 model year; (194) vehicles with a 2361-2362 model year; (195) vehicles with a 2363-2364 model year; (196) vehicles with a 2365-2366 model year; (197) vehicles with a 2367-2368 model year; (198) vehicles with a 2369-2370 model year

Upon Agency approval, the Assigned Test Months and sticker of compliance certificate expiration inspection dates become compliance deadlines for use in program enforcement. Agency approval shall be based on the availability of personnel to audit the performance of inspections and the ability of the fleet operators to meet the proposed schedule (this will be determined by the number of vehicles to be inspected, ~~exhaust-gas analyzers to be used~~ and the number of inspectors available).

- c) Inspection Reports and Stickers or Certificates
- 1) A Vehicle Inspection Report shall be submitted to the Agency for each vehicle that which passes or fails an emissions inspection or qualifies for a waiver. Inspection results shall be reported on forms provided by the Agency. Inspection results shall be submitted to the Agency within 45 days after the date of inspection ~~on or before the scheduled compliance date for each vehicle.~~
- 2) Following review and processing, the Agency shall issue inspection stickers or certificates for all vehicles complying with program requirements. If the Agency determines that a vehicle inspection report is deficient, a sticker or certificate will not be issued and it shall return the inspection report along with instructions to correct the identified deficiencies.
- 3) The permittee shall be responsible for the security and accountability of all vehicle inspection stickers or certificates issued to the permittee it. In the event of lost or stolen stickers or certificates, the permittee shall notify the Agency in writing within ten business days. Failure to report missing stickers or certificates shall be grounds for suspension or revocation of a Fleet Inspection Station Permit ~~fleet--inspection permit.~~
- 4) Inspection stickers or certificates shall be displayed or possessed in accordance with Section 276.309.
- 5) The permittee shall retain a legible copy of each completed Vehicle Inspection Report at the Fleet Inspection Station ~~fleet inspection station~~ for a minimum of two years after the date of ~~applicable~~ inspection ~~date~~. The reports shall be made available for Agency review upon request during normal business hours.
- d) Equipment, Maintenance and Calibration
- 1) All exhaust gas analyzers and tachometers shall be maintained in good working order in accordance with manufacturer's specifications.
- 2) All exhaust gas analyzers shall be calibrated utilizing

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manufacturer recommended procedures, and shall be gas spanned pursuant to the procedures set forth in Sections 276.601 and 276.602.

- 3) The permittee shall keep records of all calibrations, leak checks, and other maintenance performed on emissions emission inspection equipment for two years. The records shall be retained at the fleet facility.

All records shall be kept on standardized forms provided by the Agency and shall be made available for Agency review upon request during normal business hours.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.704 Fleet Inspection Station Auditing and Surveillance Fleet Vehicle Inspection Procedures

The Agency may, on an unscheduled and unannounced basis, during normal business hours, conduct an audit inspection of all Fleet Inspection Stations fleet inspection stations to determine if inspection equipment is properly operating and calibrated, to review vehicle inspection reports and maintenance records, and to check inspection proficiency. During the course of the audit inspection, the Agency representative may take one or more of the following actions:

- a) if an exhaust gas analyzer fails an Agency span gas or leak check, and cannot be repaired or adjusted immediately, the analyzer shall be removed from service until corrective action is taken;
- b) any any exhaust gas analyzer or calibration gas cylinder not meeting the requirements set forth in Sections 276.601 and 276.602 shall be removed from service until corrective action is taken;
- c) the the fleet inspector may be required to perform an emissions inspection on a fleet vehicle. If no fleet vehicles are available, the fleet inspector may be required to perform an emissions inspection on an Agency vehicle.

Fleet vehicles shall be inspected in accordance with the procedures set forth in Section 276.704.

(Source: Section 276.704 repealed and Section 276.705 renumbered to Section 276.704 and amended at 20 Ill. Reg. _____, effective _____)

Section 276.705 Fleet Station Auditing and Surveillance (Renumbered)

(Source: Renumbered to Section 276.704 at 20 Ill. Reg. _____, effective _____)

SUBPART E: GRIEVANCE PROCEDURE

Section 276.801 General Requirements

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Any person aggrieved by a an action or decision regarding the failure of an emissions test or the denial of a waiver of any agency personnel or any personnel employed by the Agency's contractor in the course of conducting vehicle emission inspections may petition apply to the Agency which will thereupon investigate for assistance in resolving the matter. This procedure is limited to filing a petition concerning a vehicle failing an emissions inspection or being denied a waiver; it shall not be used to grieve an action or decision of Agency or contractor personnel related to any activities other than a vehicle emissions test failure or waiver denial decision.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.802 Procedure for Filing Grievance

- a) Grievances shall be filed with the Agency within 30 15 days after of the decision made occurrence of the incident which precipitated the complaint.
- b) Grievances shall be made in writing on forms provided by the Agency.
- c) Grievance forms and instructions shall be available at all Official Inspection Stations and by mail from the Agency.
- d) the information on a grievance form shall include the following:
 - 1) Complaintant's name, address, and telephone number;
 - 2) Year, make, vehicle registration number (plate number), and model of complaintant's vehicle;
 - 3) Weight of complaintant's vehicle (if relevant);
 - 4) Location of Official Inspection Station where incident which precipitated the complaint occurred;
 - 5) Date and approximate time of occurrence of incident which precipitated the complaint;
 - 6) Name of person taking action or making decision which precipitated the complaint (if known); and
 - 7) Description of incident which precipitated the complaint.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.803 Agency Investigation

- a) The Director of the Agency or the Director's his designee shall appoint an Agency employee to investigate every grievance regarding the failure of an emissions test or the denial of a waiver submitted to the Agency in accordance with this Part these rules. In no event shall the person appointed to investigate the grievance be the same person against whom the grievance was directed.
- b) The Agency's investigation shall be concluded within 45 30 days of the receipt of the grievance form.

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- c) Within the 45 day investigation period, the Agency shall issue written notification to the petitioner, complainant and affected inspector or station to the person against whom the grievance was directed indicating the Agency's determination as to the correctness or incorrectness of the action or decision which precipitated the grievance. In conducting the investigation, the Agency may require the petitioner to present the vehicle for inspection by the Agency or its designated agent.
- d) The agency's written notification shall include a statement of the facts relied upon and the legal and technical issues decided by the Agency in making its determinations.
- e) The Agency's written notification may also include an order directing a State Inspector that the complainant's vehicle be issued an emission inspection sticker that the complainant's vehicle be retested; that specified emission standards be applied to the complainant's vehicle; or that some other action be taken which the Agency deems to be appropriate.
- 1) to issue an emissions inspection sticker or certificate;
 - 2) to reinspect the vehicle;
 - 3) to apply the standards that the Agency has determined to be applicable; or
 - 4) to take any other action that the Agency deems to be appropriate.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.804 Review of Agency's Determination

The Agency's written determination shall be subject to review in the Circuit Court in accordance with the provisions of the Administrative Review Law (410 Rev. Stat., ch. 117, par. 3-1) set forth in 735 ILCS 5/Art. III, except that no challenge to the validity of a rule adopted by the Illinois Pollution Control Board pursuant to 625 ILCS 5/13A-105(a) or 625 ILCS 5/13B-20 shall be heard by the circuit court if the challenge could have been raised in a timely petition for review under either of those Sections, as applicable.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART I: NOTICES

Section 276.901 General Requirements

The When appropriate, the Agency shall send an Initial Emissions Inspection Notice and, when appropriate, a Warning Notice the following notices to owners of vehicles subject to inspection which shall state the Assigned Test Month of the initial emissions inspection and be accompanied by a clear statement from the Agency that, based on vehicle records, the vehicle is subject to inspection

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under the Vehicle Emissions Inspection Law. A form accompanying the explanation will be provided to the vehicle owner to allow for correction of any information relied upon by the Agency:

- a) Initial Notice;
- b) First Warning Notice; and
- c) Second Warning Notice.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.902 Initial Emissions Inspection Notice

At least 15 days prior to the beginning of the Assigned Test Month, date on which a vehicle is to be inspected for the first time, the Agency shall send an Initial Emissions Inspection Notice to the registered owner of the vehicle requesting that the vehicle be tested during the Assigned Test Month. This said Initial Emissions Inspection Notice shall include the following information:

- a) an Initial Emissions Inspection Sticker or Certificate, or a Corrected or Interim Emissions Inspection Sticker or Certificate, if required;
- b) addresses and operating hours Maps of locations of all Official Inspection Stations;
- c) a form or card to be returned to the Agency indicating the reasons the owner believes that the vehicle should not be subject to inspection pursuant to the Vehicle Emissions Inspection Law or cannot comply by the expiration date Return card to correct mistaken vehicle information;
- d) brief Brief explanation of program; and
- e) instructions Instructions for vehicle inspections, and
- f) Days and hours of operation of Official Inspection Stations.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.903 First Warning Notice

If a vehicle has not complied with the provisions of the Vehicle Emissions Inspection Law or the Vehicle Emissions Inspection Law of 1995, as applicable, within two months before the sticker or certificate expiration date by the end of its assigned test month, the Agency shall send a First Warning Notice to the vehicle's owner at the registration address currently on file with the Agency. The said First Warning Notice shall include the following information:

- a) the addresses Addresses of Official Inspection Stations near the registration address of the vehicle;
- b) a form or card to be returned to the Agency indicating the reasons if the owner believes that the vehicle should not be subject to inspection under the Vehicle Emissions Inspection Law or cannot comply

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by its expiration date: ~~program~~ and
c) ~~a~~ statement of potential penalties for failure to comply with the requirements of the Vehicle Emissions Inspection Law, the Vehicle Emissions Inspection Law of 1995, or this Part, as applicable.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 276.904 Second Warning Notice (Repealed)

~~if a vehicle has not complied with the provisions of the Vehicle Emissions Inspection Law by the end of the second month after the assigned test date, the Agency shall send a second warning notice to the vehicle owner. Said Second Warning Notice shall contain the following information:~~

- a) ~~Information as described in Section 276.903; and~~
b) ~~A statement that the vehicle owner must comply with the provisions of the Vehicle Emissions Inspection Law with results in an Agency report to the Secretary of State.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

SUBPART J: RECIPROCITY WITH OTHER JURISDICTIONS

Section 276.1001 Requirements for Vehicles Registered in Affected Counties and Located in Other Jurisdictions Requiring Vehicle Emissions Inspection

Vehicles which are registered in the Affected Counties, are located and being primarily operated in other jurisdictions requiring vehicle emission testing, and will not be returning to an Affected County within 8 months after the vehicle's Assigned Test Month or are permanently located in such other jurisdiction, shall be subject to that jurisdiction and comply with such jurisdiction's emission testing regulations and the owner's registered owner must comply with the following requirements:

- a) upon written notification from the Agency to the vehicle's registered owner to have the vehicle inspected, the vehicle must be presented for inspection in the jurisdiction where the vehicle is located;
b) when the vehicle passes the inspection, receives a waiver or exemption, or otherwise complies with the emissions inspection requirements of the jurisdiction in which the vehicle is located, the vehicle inspection report or other appropriate documentation must be forwarded to the Agency at the address stated on the vehicle emission inspection report;
c) when the Agency receives the appropriate vehicle inspection report or other documentation, the vehicle inspection record will be updated to reflect the information.

(Source: Added at 20 Ill. Reg. _____, effective _____)

(Source: Added at 20 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

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1) Heading of the Part: Narrative and Planning Policies

2) Code Citation: 77 Ill. Adm. Code 1100

3) Section Number: Proposed Action:

1100.750 Amendment
1100.760 New

4) Statutory Authority: Implementing Public Act 89-393, the Alternative Health Care Delivery Act [20 ILCS 3/30(a)(10) and 35(3)] and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960]

5) A Complete Description of the Subjects and Issues Involved: Section 1100.750, Postsurgical Recovery Care Centers, is being amended to reflect statutory changes to the Alternative Health Care Delivery Act. The amendment increases the number of postsurgical recovery care centers from eight to twelve.

Section 1100.760 is being proposed for the establishment of Children's Respite Care Centers under the provisions of the Alternative Health Care Delivery Act. Under this Section, rules would be developed to address planning areas, development restrictions, bed capacity, occupancy targets and need determinations.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: To assure that narrative and planning policies' criteria are consistent with statutory intent and promote the goals and objectives of the Health Facilities Planning Act.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules by writing to:

Donald Jones, Rules Coordinator
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761

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(217)782-3516

within 45 days after this issue of the *Illinois Register*. All written comments received within the 45 days of this issue of the *Illinois Register* will be considered.

A public hearing will be held Wednesday, April 10, 1996 at 1:30 p.m. at the Hilton Hotel, 7th and Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

1. Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.

2. No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific times except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.

3. To provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small businesses.

B) Reporting, bookkeeping or other procedures required for compliance:
None

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES
PLANNING BOARD

SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1100

NARRATIVE AND PLANNING POLICIES

SUBPART A: GENERAL NARRATIVE

Section	
1100.10	Introduction
1100.20	Authority
1100.30	Purpose
1100.40	Health Maintenance Organizations (Repealed)
1100.50	Subchapter Organization
1100.60	Mandatory Reporting of Data
1100.70	Data Appendices
1100.80	Institutional Master Plan Hospitals (Repealed)
1100.90	Public Hearings

SUBPART B: GENERAL DEFINITIONS

Section	
1100.21	Introduction
1100.22	Definitions

SUBPART C: PLANNING POLICIES

Section	
1100.310	Need Assessment
1100.320	Staffing
1100.330	Professional Education
1100.340	Public Testimony
1100.350	Multi-Institutional Systems
1100.360	Modern Facilities
1100.370	Occupancy Utilization Standards
1100.380	Systems Planning
1100.390	Quality
1100.410	Location
1100.415	Needed Facilities
1100.42	Dissemination
1100.430	Coordination with Other State Agencies

SUBPART D: NEED FORMULAS UTILIZATION TARGETS

Section	
1100.510	Introduction, Formula Components and Planning Area Development

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1100.520 Medical-Surgical/Pediatric Categories of Service
 1100.530 Outpatient Category of Service
 1100.540 Intensive Care Category of Service
 1100.550 Comprehensive Physical Rehabilitation Category of Service
 1100.560 Acute Mental Illness Categories of Service
 1100.570 Substance Abuse Category of Service
 1100.580 Neonatal Intensive Care Category of Service
 1100.590 Burn Category of Service
 1100.600 Therapeutic Radiology Equipment
 1100.610 Open Heart Surgery Category of Service
 1100.620 Cardiac Catheterization Services
 1100.630 Chronic Renal Dialysis Category of Service
 1100.640 Non-Hospital Based Ambulatory Surgery
 1100.650 Computer Systems (Repealed)
 1100.660 General Long-Term Care Category of Service
 1100.670 Specialized Long-Term Care Categories of Service
 1100.680 Magnetic Resonance
 1100.690 High Linear Energy Transfer (L.B.T.)
 1100.700 Positron Emission Tomographic Scanning (P.E.T.)
 1100.710 Extracorporeal Shock Wave Lithotripsy
 1100.720 Selected Organ Transplantation
 1100.730 Kidney Transplantation
 1100.740 Subacute Care Hospital Model
 1100.750 Postsurgical Recovery Care Center Alternative Health Care Model
 1100.760 Children's Respite Care Center Alternative Health Care Model

APPENDIX A Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30,

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1995; recodified at 20 Ill. Reg. 2594, effective January 26, 1996; amended at 20 Ill. Reg. , effective .

SUBPART D: NEED FORMULAS, UTILIZATION TARGETS

Section 1100.750 Postsurgical Recovery Care Center Alternative Health Care Model

- a) Planning Areas:
 - 1) The City of Chicago;
 - 2) Cook County outside the City of Chicago;
 - 3) Kane, Lake, and McHenry Counties;
 - 4) Municipalities with a population greater than 50,000 not located in the areas described in subsections (a)(1), (2), and (3) of this Section. Municipalities means geographic areas designated as Metropolitan Statistical Area by the Bureau of the Census; and
 - 5) Rural areas, i.e., all areas exclusive of subsections (a)(1), (2), (3), and (4) of this Section.
- b) Age Groups:
 - 1) All ages
- c) Development Restrictions:
 - 1) No proposed postsurgical recovery care center alternative health care model shall be located in counties with populations greater than 600,000 but less than 1,000,000. (Section 30(a) of the Alternative Health Care Delivery Act [210 ILCS 3/30(a)])
 - 2) A proposed postsurgical recovery care center alternative health care model must be owned or operated by a hospital if it is to be located within, or will primarily serve the residents of, a health service area (see Section 1100.220 for definition of Health Service Area) in which more than 60% of the gross patient revenue of the hospitals within that health service area are derived from Medicare and Medicaid, according to the most recently available calendar year data from the Illinois Health Care Cost Containment Council. (Section 30(a) of the Alternative Health Care Delivery Act [210 ILCS 3/30(a)]) Health Service Areas which exceed this standard are Health Service Areas 5 and 11.
 - 3) Restrictions delineated above shall not preclude a hospital and an ambulatory surgical treatment center from forming a joint venture or developing a collaborative agreement to own or operate a postsurgical recovery care center. (Section 30(a) of the Alternative Health Care Delivery Act [210 ILCS 3/30(a)])
 - 4) No facility, or portion of a facility, may participate in a demonstration program as a postsurgical recovery care center unless the facility An applicant proposing to locate a postsurgical recovery care center within or attached to an existing Ambulatory Surgical Treatment Center or Hospital must document that the facility has been licensed as an ambulatory surgical treatment center or hospital for at least two years

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before August 20, 1993. (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35])

d) Bed Capacity:

A postsurgical recovery care center shall be no larger than 20 beds. (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35]) Bed capacity within a postsurgical recovery care center shall be inventoried as a separate category of service.

e) Occupancy Targets:

Beds should have an occupancy of 80% or higher.

f) Need Determination:

There shall be no more than a total of twelve ~~eight~~ postsurgical recovery care center alternative health care models in the demonstration program, located as follows:

- 1) Two ~~one~~ in the City of Chicago.
- 2) Two ~~one~~ in Cook County outside the City of Chicago. At least one of these shall be owned or operated by a hospital devoted exclusively to caring for children.
- 3) Two in Kane, Lake and McHenry Counties: ~~one of which must be located in a freestanding ambulatory surgical treatment center facility.~~
- 4) Four ~~two~~ in municipalities (as defined in subsection (a)(4)), three of which shall be owned or operated by hospitals, at least two of which shall be located in counties with a population of less than 175,000, according to the most recent decennial census for which data are available, and one of which shall be owned or operated by an ambulatory surgical treatment center. ~~One of which must be located in a freestanding ambulatory surgical treatment center facility.~~
- 5) Two in rural areas (as defined in subsection (a)(5)), both of which shall be owned or operated by hospitals. (Section 30(a-5) of the Alternative Health Care Delivery Act [210 ILCS 3/30(a-5)])

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1100.760 Children's Respite Care Center Alternative Health Care Model

a) Planning Areas:

- 1) The City of Chicago;
- 2) Cook County outside the City of Chicago;
- 3) DuPage, Kane, Lake, Will and McHenry Counties;
- 4) Municipalities with a population greater than 50,000 not located in the areas described in subsections (a)(1), (2), and (3) of this Section. Municipalities means geographic areas designated as Metropolitan Statistical Areas by the Bureau of the Census; and
- 5) Rural areas, i.e., all areas exclusive of subsections (a) (1), (2), (3), and (4) of this Section.

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b) Age Groups:

Children up to age 18.

c) Development Restrictions:

No more than one children's respite care model owned or operated by a licensed skilled pediatric facility shall be located in each of the areas designated in subsection (a) of this Section. (Section 30(a)(10) of the Alternative Health Care Delivery Act [210 ILCS 3/30(a)(10)])

d) Bed Capacity:

A Children's Respite Care Alternative Health Care Model shall provide care in a home-like environment that serves no more than 10 children at a time. (Section 35(3) of the Alternative Health Care Delivery Act [210 ILCS 3/35(3)]) Bed capacity within a children's respite care alternative health care model shall not exceed 10 beds and shall be inventoried as a separate category of service.

e) Occupancy Targets:

Beds should have an occupancy of 40% or higher.

f) Need Determination:

There shall be no more than a total of eight Children's Respite Care Alternative Health Care Models in the demonstration program, located as follows:

- 1) One in the City of Chicago.
- 2) One in Cook County outside the City of Chicago.
- 3) Two in DuPage, Kane, Lake, McHenry and Will counties.
- 4) Two in municipalities (as defined in subsection (a)(4)) not located in areas specified in subsection (f)(1), (2) or (3) above.
- 5) Two in rural areas (as defined in subsection (a)(5)) not located in areas specified in subsection (f)(1), (2), (3) or (4) above. (Section 30(a)(10) of the Alternative Health Care Delivery Act [210 ILCS 3/30(a)(10)])

(Source: Added at 20 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Processing, Classification Policies and Review Criteria

- 2) Code Citation: 77 Ill. Adm. Code 1110

- 3) Section Numbers: Proposed Action:

1110.1540	Amendment
1110.2550	Amendment
1110.2710	New Section
1110.2720	New Section
1110.2730	New Section
1110.2740	New Section
1110.2750	New Section

- 4) Statutory Authority: Implementing Public Act 89-393 and authorized by Illinois Health Facilities Planning Act (20 ILCS 3960)

- 5) A Complete Description of the Subjects and Issues Involved: Section 1110.1540, Ambulatory Surgical Treatment Centers, is being amended to review standards and criteria regarding the scope of services provided, the target population and projected patient volume of these facilities, and charge information.

Section 1110.2550, Subacute Care Alternative Health Care Model, revises the allowed period to become operational for subacute care programs from 12 months to 24 months. These centers were established as test models under the Alternative Health Care Delivery Act.

Sections 1110.2710 - 1110.2750 are being proposed for the establishment of Children's Respite Care Centers. Under these Sections, rules will be developed to address review criteria and State Board review requirements.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
1110.40	Amendments	June 23, 1995 (19 Ill. Reg. 8085)
1110.230	Amendments	June 23, 1995 (19 Ill. Reg. 8085)
1110.1430	Amendments	June 23, 1995 (19 Ill. Reg. 8085)
1110.1730	Amendments	June 23, 1995 (19 Ill. Reg. 8085)

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- Appendix B Amendments June 23, 1995 (19 Ill. Reg. 8085)
Appendix C Amendments June 23, 1995 (19 Ill. Reg. 8085)

- 10) Statement of Statewide Policy Objectives: To assure that processing, classification policies and review criteria are consistent with statutory intent and promote the goals and objectives of the Health Facilities Planning Act.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Donald Jones, Rules Coordinator
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, IL 62761
(217)782-3516

All written comments received within the 45 days of this issue of the *Illinois Register* will be considered.

A public hearing will be held Wednesday, April 10, 1996 at 1:30 p.m. at the Hilton Hotel, 7th & Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

1. Each person presenting oral testimony is requested to provide to the State Board a written (preferable typed) copy of such testimony at the time the oral testimony is presented.

2. No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific times except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.

3. To provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

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TITLE 77: PUBLIC HEALTH
CHAPTER 11: HEALTH FACILITIES
PLANNING BOARD
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1110
PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA
SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section	
1110.10	Introduction to Part 1110
1110.20	Projects Required to Obtain a Permit (Repealed)
1110.30	Processing and Reviewing Applications
1110.40	Classification of Projects
1110.50	Recognition of Services Which Existed Prior to Permit Requirements
1110.55	Recognition of Non-Hospital Based Ambulatory Surgery Category of Service
1110.60	Master Design Projects

SUBPART B: REVIEW CRITERIA--DISCONTINUATION

Section	
1110.110	Introduction
1110.120	Discontinuation--Definition
1110.130	Discontinuation--Review Criteria

SUBPART C: GENERAL REVIEW CRITERIA APPLICABLE TO ALL PROJECTS OTHER THAN DISCONTINUATION

Section	
1110.210	Introduction
1110.220	Definitions--General Review Criteria
1110.230	General Review Criteria
1110.235	Additional General Review Criteria
1110.240	Mergers, Consolidations and Acquisitions

SUBPART D: REVIEW CRITERIA RELATING TO ALL PROJECTS INVOLVING ESTABLISHMENT OF ADDITIONAL BEDS OR SUBSTANTIAL CHANGE IN BED CAPACITY

Section	
1110.310	Introduction
1110.320	Bed Related Review Criteria

SUBPART E: MODERNIZATION REVIEW CRITERIA

Section

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These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit organizations affected: Health care facilities that meet the definition of small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page:

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1110.410 Introduction
1110.420 Modernization Review Criteria

SUBPART F: CATEGORY OF SERVICE REVIEW CRITERIA--
MEDICAL/SURGICAL, OBSTETRIC, PEDIATRIC AND INTENSIVE CARE

Section
1110.510 Introduction
1110.520 Medical/Surgical, Obstetric, Pediatric and Intensive
Care--Definitions
1110.530 Medical/Surgical, Obstetric, Pediatric and Intensive Care--Review
Criteria

SUBPART G: CATEGORY OF SERVICE REVIEW CRITERIA--
COMPREHENSIVE PHYSICAL REHABILITATION

Section
1110.610 Introduction
1110.620 Comprehensive Physical Rehabilitation--Definitions
1110.630 Comprehensive Physical Rehabilitation--Review Criteria

SUBPART H: CATEGORY OF SERVICE REVIEW CRITERIA--ACUTE
MENTAL ILLNESS

Section
1110.710 Introduction
1110.720 Acute Mental Illness--Definitions
1110.730 Acute Mental Illness--Review Criteria

SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA--SUBSTANCE ABUSE

Section
1110.810 Introduction
1110.820 Substance Abuse--Definitions
1110.830 Substance Abuse--Review Criteria

SUBPART J: CATEGORY OF SERVICE REVIEW CRITERIA--
NEONATAL INTENSIVE CARE

Section
1110.910 Introduction
1110.920 Neonatal Intensive Care--Definitions
1110.930 Neonatal Intensive Care--Review Criteria

SUBPART K: CATEGORY OF SERVICE REVIEW CRITERIA--BURN TREATMENT

Section
1110.1010 Introduction

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1110.1020 Burn--Definitions
1110.1030 Burn Treatment--Review Criteria

SUBPART L: CATEGORY OF SERVICE REVIEW CRITERIA--
THERAPEUTIC RADIOLOGY

Section
1110.1110 Introduction
1110.1120 Therapeutic Radiology--Definitions
1110.1130 Therapeutic Radiology--Review Criteria

SUBPART M: CATEGORY OF SERVICE REVIEW CRITERIA--
OPEN HEART SURGERY

Section
1110.1210 Introduction
1110.1220 Open Heart Surgery--Definitions
1110.1230 Open Heart Surgery--Review Criteria

SUBPART N: CATEGORY OF SERVICE REVIEW CRITERIA--CARDIAC
CATHETERIZATION

Section
1110.1310 Introduction
1110.1320 Cardiac Catheterization--Definitions
1110.1330 Cardiac Catheterization--Review Criteria

SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA--CHRONIC RENAL DIALYSIS

Section
1110.1410 Introduction
1110.1420 Chronic Renal Dialysis--Definitions
1110.1430 Chronic Renal Dialysis--Review Criteria

SUBPART P: CATEGORY OF SERVICE REVIEW CRITERIA--NON-HOSPITAL
BASED AMBULATORY SURGERY

Section
1110.1510 Introduction
1110.1520 Non-Hospital Based Ambulatory Surgery--Definitions
1110.1530 Non-Hospital Based Ambulatory Surgery--Projects Not Subject to This
Part
1110.1540 Non-Hospital Based Ambulatory Surgery--Review Criteria

SUBPART Q: CATEGORY OF SERVICE REVIEW CRITERIA--COMPUTER SYSTEMS

Section
1110.1610 Introduction (Repealed)

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1110.1620 Computer Systems--Definitions (Repealed)
 1110.1630 Computer Systems--Review Criteria (Repealed)

SUBPART R: CATEGORY OF SERVICE REVIEW CRITERIA--GENERAL
 LONG-TERM CARE

Section
 1110.1710 Introduction
 1110.1720 General Long-Term Care--Definitions
 1110.1730 General Long-Term Care--Review Criteria

SUBPART S: CATEGORY OF SERVICE REVIEW CRITERIA--SPECIALIZED
 LONG-TERM CARE

Section
 1110.1810 Introduction
 1110.1820 Specialized Long-Term Care--Definitions
 1110.1830 Specialized Long-Term Care--Review Criteria

SUBPART T: CATEGORY OF SERVICE REVIEW CRITERIA--
 MAGNETIC RESONANCE

Section
 1110.1910 Introduction
 1110.1920 Magnetic Resonance--Definitions
 1110.1930 Magnetic Resonance--Review Criteria

SUBPART U: CATEGORY OF SERVICE REVIEW CRITERIA--HIGH LINEAR
 ENERGY TRANSFER (L.E.T.)

Section
 1110.2010 Introduction
 1110.2020 High Linear Energy Transfer (L.E.T.)--Definitions
 1110.2030 High Linear Energy Transfer (L.E.T.)--Review Criteria

SUBPART V: CATEGORY OF SERVICE REVIEW CRITERIA--POSITRON
 EMISSION TOMOGRAPHIC SCANNING (P.E.T.)

Section
 1110.2110 Introduction
 1110.2120 Positron Emission Tomographic Scanning (P.E.T.)--Definitions
 1110.2130 Positron Emission Tomographic Scanning (P.E.T.)--Review Criteria

SUBPART W: CATEGORY OF SERVICE REVIEW CRITERIA--EXTRACORPOREAL
 SHOCK WAVE LITHOTRIPSY

Section
 1110.2210 Introduction

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1110.2220 Extracorporeal Shock Wave Lithotripsy--Definitions
 1110.2230 Extracorporeal Shock Wave Lithotripsy--Review Criteria

SUBPART X: CATEGORY OF SERVICE REVIEW CRITERIA--SELECTED
 ORGAN TRANSPLANTATION

Section
 1110.2310 Introduction
 1110.2320 Selected Organ Transplantation--Definitions
 1110.2330 Selected Organ Transplantation--Review Criteria

SUBPART Y: CATEGORY OF SERVICE REVIEW CRITERIA--KIDNEY TRANSPLANTATION

Section
 1110.2410 Introduction
 1110.2420 Kidney Transplantation--Definitions
 1110.2430 Kidney Transplantation--Review Criteria

SUBPART Z: CATEGORY OF SERVICE REVIEW CRITERIA--SUBACUTE
 CARE HOSPITAL MODEL

Section
 1110.2510 Introduction
 1110.2520 Subacute Care Hospital Model--Definitions
 1110.2530 Subacute Care Hospital Model--Review Criteria
 1110.2540 Subacute Care Hospital Model--State Board Review
 1110.2550 Subacute Care Hospital Model--Project Completion

SUBPART AA: CATEGORY OF SERVICE REVIEW CRITERIA--POSTSURGICAL RECOVERY CARE
 CENTER ALTERNATIVE HEALTH CARE MODEL

Section
 1110.2610 Introduction
 1110.2620 Postsurgical Recovery Care Center Alternative Health Care Model--Definitions
 1110.2630 Postsurgical Recovery Care Center Alternative Health Care Model--Review Criteria
 1110.2640 Postsurgical Recovery Care Center Alternative Health Care Model--State Board Review
 1110.2650 Postsurgical Recovery Care Center Alternative Health Care Model--Project Completion

SUBPART AB: CATEGORY OF SERVICE REVIEW CRITERIA -
 CHILDREN'S RESPIRE CARE ALTERNATIVE HEALTH CARE MODEL

Section
 1110.2710 Introduction
 1110.2720 Children's Respire Care Center Alternative Health Care Model - Definitions

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1110.273)	Children's Respiratory Care Center	Alternative Health Care
Model - Review Criteria		
1111.274)	Children's Respiratory Care Center	Alternative Health Care
Model - State Board Review		
1112.275)	Children's Respiratory Care Center	Alternative Health Care
Model - Project Completion		

APPENDIX A Medical Specialty Eligibility/Certification Boards
 APPENDIX B State and National Norms on Square Footage by Department
 APPENDIX C Statutory Citations for All State and Federal Laws and Regulations Referenced in Chapter 1110

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, P. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, P. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4835, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16099, effective September 21, 1988; amended at 13 Ill. Reg. 16078, effective September 29, 1989; emergency amendments at 16 Ill. Reg. 13159, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 16 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 8455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15273, effective October 20, 1995, for a maximum of 150 days; recodified at 20 Ill. Reg. 2594, effective January 26, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART P: CATEGORY OF SERVICE REVIEW CRITERIA--
 NON-HOSPITAL BASED AMBULATORY SURGERY

Section 1110.1540 Non-Hospital Based Ambulatory Surgery--Review Criteria

- a) "Licensure" - Review Criterion Criteria
 Any applicant proposing to establish or modernize a non-hospital based ambulatory surgery category of service must document compliance or an administrative plan, in the case of facilities proposing to establish the service, which would assure compliance with all appropriate licensing regulations of the Agency.
- b) "Scope of Services Provided" - Review Criterion Criteria

Any applicant proposing to establish a non-hospital based ambulatory surgical category of service must detail the surgical specialties services which will be provided by the proposed project. The applicant must indicate which of the following surgical specialties will be provided at the proposed facility:

- 1) Ear, Nose and Throat
- 2) Dental
- 3) General
- 4) Gynecological
- 5) Orthopedic
- 6) Plastic
- 7) Urological
- 8) Pediatric
- 9) Podiatric
- 10) Gastroenterology
- 11) Ophthalmology
- 12) Anesthesiology
- 13) Neurological
- 14) Other

c) "Target Population" - Review Criterion Criteria

Because of the nature of ambulatory surgical treatment, the State Board has not established geographic service areas for assessing need. Therefore, an applicant must define its intended geographic service area and target population.

d) "Projected Patient Volume" - Review Criterion Criteria

- 1) The applicant must provide documentation of the projected patient volume for each specialty to be offered at the proposed facility. Documentation must include physician referral letters which contain the following information: Having--an--intended geographic service area--and--target population--the applicant must document--its--projected--case--load--at--present--volume--for--each--of the surgical procedures--which--will--be--provided--the--projected patient--volume--estimate--must--be--based--on--the--number--of--patients who--are--currently--referred--for--such--surgical--procedures--to--other ambulatory surgical treatment centers--or--acute--care--facilities--by physicians who--will--refer--patients--to--the--proposed--facility--The projection--must--be--an--annual--basis--and--represent--the--patients who--will--be--referred--to--the--proposed--project--for--treatment--
- A) the number of referrals anticipated annually for each specialty;
- B) for the past 24 months, the name and location of health care facilities to which patients were referred, including the number of patients referred for each surgical specialty by facility;
- C) an explanation of why patients proposed to be referred to the applicant facility would no longer be referred to the health care facilities listed in subsection (d)(1)(B) above;
- D) a statement by the physician that the information contained

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- hospital and the proposed ASTC; and
- 2) the existing hospital must currently be providing outpatient surgery services to the target population group; and
 - 3) the existing hospital must have sufficient historical workload to justify the number of operating rooms both at the existing hospital and the proposed ASTC, based upon the formula shown under subsection (e). The existing facility must also provide a letter of agreement which contains a commitment to keep closed any operating rooms which were closed in order to meet this requirement, and a commitment not to add any operating rooms until such times as the proposed ASTC is operating at or above the target utilization rate for a full 12 months; and
 - 4) the applicant must document that the proposed charges at the proposed ASTC will be lower than at the existing hospital.

i)

Charge Commitment - Review Criterion

In order to meet the purposes of the Act which are to improve the financial ability of the public to obtain necessary health services and to establish a procedure designed to reverse the trends of increasing costs of health care, the applicant shall provide a list of charges for procedure which must be all inclusive, i.e., they must include all charges except for the physician's charge and the anesthesiologist's charges. The applicant must provide a commitment that these charges shall be maintained, at a minimum, for the first two years of operation unless a permit is first obtained pursuant to 77 Ill. Adm. Code 1130.310(a).

ii)

Change in Scope of Service - Review Criterion

Any applicant proposing to change the surgical specialties currently being provided by adding one or more of the surgical specialties listed under subsection (b) of this Section must document one of the following:

- 1) that there are no other facilities within 30 minutes travel time of the applicant facility which provide the proposed new service; or
- 2) that the existing facilities within 30 minutes travel time of the applicant facility are operating at or above the 80% occupancy target; or
- 3) that the existing programs are not accessible to the general population of the geographic service area in which the applicant facility is located.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART 2: CATEGORY OF SERVICE REVIEW CRITERIA-SUBACUTE CARE HOSPITAL MODEL

Section 1110.2550 Subacute Care Hospital Model-Project Completion

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- a) Since the purpose for establishment of this category of service is to evaluate the alternative delivery model for effectiveness, such projects are not complete until such time as the model is evaluated and the decision made to adopt or not adopt the model as an ongoing licensed level of service separate from an alternative delivery model. A discontinuation permit will not be required of a facility holding a subacute care hospital model permit if the facility elects to discontinue the model but retain licensed subacute care beds. The subacute care hospital model project shall be considered complete as of the date the Agency is notified of the discontinuation. If during the course of the model evaluation period an approved provider of the subacute hospital care model elects to discontinue the category of service, a replacement provider of the same type may be approved by the State Board. If a need for an additional subacute care hospital model exists, applications shall be approved in accordance with Section 1110.2540. Any alteration to the subacute care hospital model during the life of the permit is subject to State Board review.
- b) All assurances and charges for service presented in the application shall be in effect for the life of the permit unless altered pursuant to the approval of the State Board.
- c) A subacute care hospital model shall have 24 x 2 months from the date of permit issuance to become operational. Failure to begin operation in this time period shall result in the permit becoming null and void.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART AB: CATEGORY OF SERVICE REVIEW CRITERIA - CHILDREN'S RESPITE CARE ALTERNATIVE HEALTH CARE MODEL

Section 1110.2710 Introduction

- a) Subpart AB of this Part contains review criteria which pertain to the Children's Respite Care Alternative Health Care Model category of service. The Children's Respite Care Alternative Health Care Model category of service is a demonstration program which is authorized by the Alternative Health Care Delivery Act. These Children's Respite Care Alternative Health Care Model review criteria are utilized in addition to the General Review Criteria contained in Subpart C of this Part and in addition to the Financial and Economic Feasibility Review Criteria contained in 77 Ill. Adm. Code 1120. This Subpart also contains the methodology the State Board shall utilize in evaluating competing applications, if any, for the establishment of any Children's Respite Care Alternative Health Care Models. The provisions of the Act concerning children's respite care centers shall not apply to any facility licensed under the Hospital Licensing Act, the Nursing Home Care Act, or the University of Illinois Hospital Act that provides respite care services to children (Section 15 of the

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- Alternative Health Care Delivery Act [210 ILCS 3/15]).
- b) A Children's Respite Care Alternative Health Care Model must obtain a certificate of need permit to establish the category of service prior to receiving a license for the service. Failure to obtain such permit will result in the application of sanctions as provided in the Illinois Health Facilities Planning Act [20 ILCS 3960].
- c) As the purpose of the demonstration project is to evaluate the model for quality factors, access and the impact on health care costs, each applicant approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness. Data collected shall be provided to the Department of Public Health and the Illinois State Board of Health for use in their evaluation of the model.
- d) Applications received for the Children's Respite Care Alternative Health Care Model shall be deemed complete upon receipt by the State Agency. All Children's Respite Care Alternative Health Care Models for purposes of review shall be considered the establishment of a category of service rather than the addition of beds. Therefore, the 60 day review requirement of 77 Ill. Adm. Code 1130.610(b) for bed projects shall not apply to applications of this type. Due to the comparative nature of the Children's Respite Care Alternative Health Care Model review, applicants will not be allowed to amend the application or provide additional supporting documentation during the review process prior to the initial State Board decision. The application, as submitted to the State Agency, shall serve as the basis for all standard and prioritization evaluation.

(Source: Added at 20 Ill. Reg. _____, effective _____.)

Section 110.2720 Children's Respite Care Center Alternative Health Care Model - Definitions

- a) "Children's Respite Care Alternative Health Care Model" means a category of service for the provision of respite care to medically frail or technologically dependent children within a children's respite care center. Children cannot exceed age 18 and length of stay must be 14 days or less.
- b) "Children's Respite Care Center" means a facility physically separate and apart from any other facility licensed by the Department of Public Health under the Alternative Health Care Delivery Act or any other Act and which is established and designed to provide a home-like environment to medically frail, technologically dependent children who are placed within the facility for short durations in order to provide a respite for the caregiver(s). The facility must provide at a minimum, out-of-home respite care, hospital to home training for families and caregivers, short term transitional care to facilitate placement and training for foster care parents, parent and family

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- support groups (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35]).
- c) "Clinically Stable" means a medical condition which does not require major diagnostic procedures or therapeutic interventions within a time frame appropriate to the condition.
- d) "Medically Frail or Medically Fragile Child" means a child who requires a particular medical device to compensate for the use of a body function and who must be constantly assessed and monitored and have the necessary health care readily available to avert death or further disability.
- e) "Out-of-Home Respite Care" means care provided in a facility setting to an individual who normally receives such care in a home environment for the purposes of providing a respite to the caregiver from the responsibilities of providing such care.
- f) "Short Term Transitional Care" means care provided to an individual on an interim basis to allow for the training of the home caregiver or to allow the relocation of the patient from one care environment to another.
- g) "Technologically Dependent or Technology Dependent Child" means a child who has a chronic health-related condition and whose survival and quality of life is dependent upon medical technology whether it be mechanical, biological or technical.

(Source: Added at 20 Ill. Reg. _____, effective _____.)

Section 110.2730 Children's Respite Care Center Alternative Health Care Model - Review Criteria

- a) Admission Policies - Review Criterion
The applicant must document that the children's Respite Care Alternative Health Care Model will not restrict admissions due to age, race, diagnosis, or source of payment. Documentation shall consist of copies of all admission policies to be in effect at the facility and a signed statement that no restrictions on admissions due to the factors indicated above will occur.
- b) Staffing - Review Criterion
The applicant must document that the children's respite care center will have a medical director who has expertise in chronic diseases of children. The applicant must also provide a staffing plan that will provide for nursing coverage as required by licensure. Documentation shall consist of: identification of the number and type of staff positions dedicated to the model; how special staffing circumstances will be handled; and identification of the facility medical director and a description of his or her responsibilities.
- c) Mandated Services - Review Criterion
The applicant must document that the children's respite care center has the capability of providing the minimum range of services required

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under the Act as referenced in Section 110.2720(b). Documentation shall consist of a narrative explaining how such services will be provided.

- d) Acute Care Backup - Review Criterion
The applicant must document that an agreement has been signed with an acute care facility for the referral of emergency patients. The acute care facility must be located within 15 minutes travel time of the children's respite care center and have an organized pediatric department.

- e) Patient Screening/Emergency Care - Review Criterion
The applicant must document that an admission protocol will be established for the screening of potential residents for the severity of medical conditions associated with the required care for the child. Facilities of this type are not intended to provide diagnosis or treatment or care to the chronic child whose medical condition would warrant placement in a facility when more sophisticated medical intervention is required. Documentation shall include a narrative description of all protocols developed for the medical screening of potential admissions. The applicant must also document that, for each child admitted, a care plan has been developed which identifies the medical needs of the child and identifies a physician that can be contacted in case of emergency. The applicant must submit a copy of the facility's protocols dealing with the required components of individual care plans and how emergency situations will be handled.

- f) Education - Review Criterion
The applicant must document that children who participate in educational programs will continue to receive such services during their stay at the facility. Documentation shall detail who has the responsibility for maintaining these services and how such services will be provided.

- g) Age Specific Needs - Review Criterion
The needs of the medically frail child differ due to medical condition and to the age of the patient. The applicant must document that if the center will admit children of all age groups that the appropriate staff expertise exists to deal with the care needs of all age groups admitted to the facility. Documentation shall consist of a narrative description of staff expertise as it pertains to the specific care needs required of the various age groups that will be admitted.

- h) Project Costs - Review Criterion
An applicant must document that the project cost to establish such model will not exceed \$800,000. Documentation shall be based on the Part 1120 financial data submissions which detail the itemized costs of the project.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 110.2740 Children's Respite Care Center Alternative Health Care

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Model - State Board Review

- a) State Board Evaluation. The State Board shall evaluate each application for the Children's Respite Care Alternative Health Care Model category of service (refer to 77 Ill. Adm. Code 1100.760(c) for development restrictions) based upon compliance with the conditions set forth in subsection (b).

- b) State Board Prioritization

- 1) An application for the category of service must meet the development restrictions specified in 77 Ill. Adm. Code 1100.760(c).
- 2) All applications for each planning area shall be evaluated by the State Board and awarded points as follows:
 - A) Compliance with all General Review Criteria --- 10 Points.
 - B) Compliance with all review criteria of Section 110.2730 (Children's Respite Care Alternative Health Care Model Review Criteria) --- 10 Points.
 - C) Compliance with all applicable review criteria of 77 Ill. Adm. Code 1120 (Financial Review Criteria) --- 10 Points.
 - D) Location of the proposed model in a residential community under single family or group home zoning requirements --- 5 Points.
 - E) Location in a medically underserved area (as defined by the Federal Department of Health and Human Services (Section 332 of the Public Health Service Act) as a health professional shortage area) --- 3 Points.

- 3) A Children's Respite Care Alternative Health Care Model must obtain a minimum of 20 points to be considered for approval. Competing applications within a planning area which have obtained the points necessary for permit consideration shall be evaluated by the State Board to determine which application best implements the goals of the Health Facilities Planning Act and the Alternative Health Care Delivery Act, including the extent to which the model will provide care in a home-like environment and be located in a residential community.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 110.2750 Children's Respite Care Alternative Health Care Model - Project Completion

- a) Since the purpose for establishment of this category of service is to evaluate the alternative delivery model for effectiveness, such projects are not complete until such time as the model is evaluated and the decision made to adopt or not adopt the model as an ongoing licensed level of service separate from an alternative delivery model. A discontinuation permit will not be required of a facility holding a

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Children's Respiratory Care Alternative Health Care Model permit. If the facility proposes to discontinue the model, written notice containing the reasons for the discontinuation must be received by the State Board at least 90 days prior to the anticipated discontinuation. The project shall be considered discontinued as of the date the Agency receives notice of the actual discontinuation or the date the last patient is discharged, whichever is later. If a need for an additional model exists, applications shall be approved in accordance with Section 1110.2740.

- o) All assurances for service presented in the application shall be in effect for the life of the permit unless altered pursuant to the approval of the State Board.

(Source: Added at 20 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Public Notice of Opportunity for Public Hearing and Public Hearing Procedures
- 2) Code Citation: 77 Ill. Adm. Code 1200
- 3) Section Numbers: Proposed Action:
1200.30 Amendment
1200.40 Amendment
- 4) Statutory Authority: Illinois Health Facilities Planning Act (20 ILCS 3960)

- 5) A Complete Description of the Subjects and Issues Involved: Part 1200 contains the Health Facilities Planning Board's procedural rules on opportunity for public hearing and public hearing requirements for certificate of need (permit) applications. The proposed amendments delete the notice requirements for various organizations, health care facilities, and other persons and follows the statutory requirement of giving notice through publication in a newspaper serving the community.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: To assure that public notice of opportunity for public hearing and public hearing procedures is consistent with statutory intent and promotes the goals and objectives of the Health Facilities Planning Act.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the Illinois Register to:

Donald Jones, Rules Coordinator
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761
(217) 782-3516

All written comments received within the 45 days of this issue of the

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Illinois Register will be considered.

A public hearing will be held Wednesday, April 10, 1996 at 1:30 p.m. at the Hilton Hotel, 7th & Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

1. Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
2. No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific times except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.

3. In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, that State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedures Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small businesses.

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES
PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1200

PUBLIC NOTICE OF OPPORTUNITY FOR PUBLIC HEARING AND
PUBLIC HEARING PROCEDURES

Section	Authority
1200.10	Applicability
1200.20	Procedures for Public Notification of Opportunity for Public Hearing
1200.30	Procedures for Notice of Public Hearing on Applications for Permit
1200.40	Procedures for Public Hearing on Applications for Permit
1200.50	Procedure for Public Notice of Application for Certificate of Recognition (or Revocation, Thereof)
1200.60	Procedures for Public Hearing on an Application for Certificate of Recognition (or Revocation, Thereof)
1200.70	

AUTHORITY: Implementing and authorized by Section 12(2) of the Illinois Health Facilities Planning Act [20 ILCS 3960/12(2)].

SOURCE: Second Edition adopted at 4 Ill. Reg. 4, p. 254, effective January 11, 1980; amended at 5 Ill. Reg. 4966, effective April 22, 1981; emergency amendment at 6 Ill. Reg. 6900, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11591, effective September 9, 1982; codified at 8 Ill. Reg. 14282; amended at 12 Ill. Reg. 15609, effective September 14, 1988; recodified at 20 Ill. Reg. 2594, effective January 26, 1996; amended at 20 Ill. Reg. _____, effective _____.

Section 1200.30 Procedures for Public Notification of Opportunity for Public Hearing

Content and Distribution of Public Notice of Receipt of an Application for Permit:

- a) After an application for permit has been received and has been deemed complete, the recognized areawide health planning organization or the Agency (as the case may be) shall afford an opportunity for public hearing on the project by preparing a public notice advising that the application for permit has been received. The content of this public notice shall consist of at least the following elements:
 - 1) Identification of the proposed project and the Review Schedule (including a brief description of the project);
 - 2) Identification (including the mailing address and telephone number) of the appropriate recognized areawide health planning organization or the Agency (as the case may be); and
 - 3) The "time-frame" (which shall be at least 15 days from the date

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of notification of the beginning of the Review Period) for any person ~~interested or affected party~~ to contact the recognized areawide health planning organization (or the Agency) to request a public hearing on the proposed project.

- b) The "Notice of Review and Opportunity for Public Hearing" (as prepared in accordance with Subsection (a) above) shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community to be affected. The "date of notification" of the beginning of the Review Period, is the date on which the "Notice of Review and Opportunity for Public Hearing" is sent to the applicant or the date on which the notice appears in the newspaper, whichever is later. Such notice should be published as soon as is possible after the receipt of an application in order to allow the public at least 15 days to request a public hearing.

- c) The "Notice of Review and Opportunity for Public Hearing" shall also be forwarded by mail to the following ~~agencies or unaffected persons~~:

- 1) The State Health Planning Development Agency (SHPDA) or the areawide health planning organization, as the case may be; and
- 2) Any contiguous areawide health planning organization or any areawide health planning organization(s) located in the same Standard Metropolitan Statistical Area (SMSA) that might have interest in the proposed project.

4) Any ~~third party payor who reimburses health care facilities for services in the area which are proposed project is to be located, who have contracted with the recognized areawide health planning organization or the Agency for the case may be and have interest in the proposed project.~~

4) Any ~~existing health care facilities located in the health service area in which the proposed project is located; that provide services in the area proposed project.~~

4) State ~~Senators and Representatives of the legislative branch who are to be served by the proposed project shall be deemed to have been given by publication of the notice in a newspaper in the area or community to be affected (as outlined in Section 1200.30 (b)).~~

d) Notice to all other persons including members of the general public who are to be served by the proposed project shall be deemed to have been given by publication of the notice in a newspaper in the area or community to be affected (as outlined in Section 1200.30 (b)).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1200.40 Procedures for Notice of Public Hearing on Applications for Permit

Content and Distribution of Notice of Public Hearing on Applications for Permit:

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- a) If the recognized areawide health planning organization or the Agency (as the case may be) receives a request for public hearing on a proposed project in response to the notification of opportunity for public hearing (as outlined in Section 1200.30) and within the "time-frame" established for any person ~~affected persons~~ to respond, then the recognized areawide health planning organization or the Agency must schedule a public hearing on the proposed project and a public notice of the hearing prepared. The content of the public notice shall consist of at least the following elements:

- 1) Identification of the subject to be heard;
 - 2) Identification of the law under which it is being heard;
 - 3) Identification of the agency conducting the hearing;
 - 4) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the issues; and
 - 5) Announcement of the time, date and location of the hearing.
- b) Notice of such hearing (as prepared in accordance with Subsection (a) above) shall be made promptly by certified mail to the applicant, and within 10 days of the hearing, by publication in a newspaper of general circulation in the area or community to be affected (Section 8 of the Act).

- c) Notice of the public hearing shall also be forwarded by mail to the following ~~agencies or unaffected persons~~:

- 1) The State Health Planning Development Agency (SHPDA) or the areawide health planning organization, as the case may be; and
- 2) Any contiguous areawide health planning organizations or any areawide health planning organization(s) located in the same Standard Metropolitan Statistical Area (SMSA) that might have interest in the proposed project.

3) Any ~~third party payor who reimburses health care facilities for services in the area which are proposed project is to be located, who have contracted with the recognized areawide health planning organization or the Agency for the case may be and have interest in the proposed project.~~

4) Any ~~existing health care facilities located in the health service area in which the proposed project is located; that provide services similar to the proposed project.~~

4) State ~~Senators and Representatives of the legislative branch who are to be served by the proposed project shall be deemed to have been given by publication of the notice in a newspaper in the area or community to be affected (as outlined in Subsection (b) above).~~

6) Any ~~local health departments and medical societies located in the health service area.~~

d) Notice to all other persons including members of the general public who are to be served by the proposed project shall be deemed to have been given by publication of the notice in a newspaper in the area or community to be affected (as outlined in Subsection (b) above).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Pre-Licensing and Continuing Education

2) Code Citation: 50 Ill. Adm. Code 3119

3) Section Numbers: Proposed Action:

3119.20	Amended
3119.30	Amended
3119.40	Amended
3119.45	New Section
3119.50	Amended
3119.60	Amended
3119.70	Amended
3119.Exhibit A	Amended
3119.Exhibit B	Amended
3119.Exhibit C	Amended
3119.Exhibit D	Amended
3119.Exhibit E	Amended
3119.Exhibit F	Amended

4) Statutory Authority: Implementing Section 494.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/494.1 and 401].

5) A Complete Description of the Subjects and Issues Involved: A number of major changes in continuing education are on the horizon for Illinois insurance producers. In conjunction with recommendations of the Professional Independent Insurance Association of Illinois and the Illinois Life Underwriters Association, the Department of Insurance included in its 1995 legislative package a revised continuing education proposal that was ultimately enacted by the Illinois General Assembly (PA 89-152).

Effective January 1, 1997, all resident insurance producers will be required to obtain 15 hours of continuing education each year prior to renewing their license. The current requirement is for 25 hours but only for the first four renewals after a producer is initially licensed. There will be no exceptions to the new requirement. Producers who have completed their four years, as well as those who were grandfathered out of the initial continuing education requirement, are all subject to the new requirement.

There will be additional minor changes in the proposed rule, including:

1. Clarifying that a producer must pass an examination if the course is self-study and that the first grading of the examination will be the basis for credit. The examination may not be retaken to receive credit. Pursuant to the new law, a course given in a combination of classroom and self-study will be considered self-study unless the

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classroom hours equal at least two-thirds of the assigned hours of the course.

2. Prohibiting providers from providing answers to examinations prior to the student taking the examination and prohibiting students from evaluating their own examination. (Violators will be subject to regulatory penalties.)

3. Clarifying the difference between long term care continuing education and long term care training as required by 50 Ill. Adm. Code 2012 and 2018.

4. Allowing students to receive credit for the same course if three years have passed since credit was last received for the course.

5. Creating a format for provider reporting. This report may eventually be submitted by diskette.

6) Will this proposed amendment replace emergency rule currently in effect?
No

7) Does this amendment contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

David VanLieshout	Denise Fuchs
Assistant Chief Counsel	Rules Unit Supervisor
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
(or)	
Springfield, IL 62767	Springfield, IL 62767
(217) 782-8216	(217) 785-8560

12) Initial Regulatory Flexibility Analysis: The Department has determined that these proposed amendments will affect insurance producers. The Department published an article in the Illinois Insurance publication (December 1995 #6) which put the public, insurance producers and providers

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on notice of the upcoming changes now being proposed as amendments hereto.

- 13) Regulatory Agenda on which this amendment was summarized: July 1995

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER 11: INSURANCE PRODUCER, LIMITED INSURANCE REPRESENTATIVES AND REGISTERED FIRMS

PART 3119

PRE-LICENSING AND CONTINUING EDUCATION

Section	
3119.10	Purpose
3119.20	Definitions
3119.30	Provider Responsibilities
3119.40	Responsibilities of Applicant Applicants for Insurance Producer Licenses and Licensed Insurance Producers
3119.45	Responsibilities of Applicant for Insurance Producer Licenses and Licensed Insurance Producers
3119.50	Pre-licensing - Course of Study Requirements
3119.60	Continuing Education Requirements
3119.70	Course and Provider Disqualification
3119.80	Severability
EXHIBIT A	REQUEST FOR CERTIFICATION OF A PRE-LICENSING COURSE
EXHIBIT B	REQUEST FOR CERTIFICATION OF A CONTINUING EDUCATION COURSE
EXHIBIT C	PROVIDER LIST - PROOF OF COMPLETION FOR PRE-LICENSING EDUCATION
	PRE-LICENSING-EDUCATION---PROOF-OF-COMPLETION
EXHIBIT D	PROVIDER LIST - PROOF OF COMPLETION FOR CONTINUING EDUCATION
	CONTINUING-EDUCATION---PROOF-OF-COMPLETION
EXHIBIT E	COURSE OF STUDY - LIFE CLASS-OF-INSURANCE---LIFE
EXHIBIT F	COURSE OF STUDY - ACCIDENT/HEALTH CLASS-----OF
	INSURANCE---ACCIDENT-HEALTH
EXHIBIT G	COURSE OF STUDY - FIRE
EXHIBIT H	COURSE OF STUDY - CASUALTY/MOTOR VEHICLE

AUTHORITY: Implementing Section 494.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/494.1 and 401].

SOURCE: Adopted at 9 Ill. Reg. 80, effective January 1, 1985; amended at 15 Ill. Reg. 69, effective January 1, 1991; amended at 16 Ill. Reg. 126, effective January 1, 1992; amended at 18 Ill. Reg. 16568, effective November 1, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 3119.20 Definitions

For the purposes of this Part, the following definitions shall apply:

"Course" - Any course of study certified to the Director which meets as-meeting the requirements of this Part, including but not limited to seminar, classroom and, self-study formats and interactive computer.

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"Date of Original Issue" - The date of the issuance of a producer's license. Any lapse or suspension of three years or more shall establish a new date of original issue and subject the person to this Part.

"~~producer~~" - ~~Any individual licensed as an insurance producer after January 1, 1995, and who is in the first four 12-month periods after the date of original issue.~~

"provider" - Any person who offers a course for which certification has been received by the Director.

"Successful Completion" - Passing an examination in accordance with criteria established by the provider.

"Supervised Examination" - A proctored, timed and closed book examination.

Traditional Long-Term Care (LTTC) and Long-Term Care Partnership (LTCP) Training Credit - Prescribed training required by licensed producers prior to the producer being allowed to sell LTTC and LTCP. This training is required pursuant to 50 Ill. Adm. Code 2012.122(a)(9) and 2018.80(d) and may satisfy a part of the continuing education requirement if the course is filed with the Department as a continuing education course.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 319.30 Provider Responsibilities

- Each provider shall submit a certification form to the Director for each course it intends to offer for pre-licensing or continuing education credit. ~~Seminar certifications must contain the dates of all future presentations.~~ Certification must be on a form as prescribed by either Exhibit A or B of this Part, whichever is applicable.
- Each provider shall submit a new certification form when any time there is a significant change in the course.
- Each provider shall maintain a copy of all instructional materials for each course. If the provider ceases to offer a course or makes a significant change in course materials, the provider shall maintain the original material for one year from the date such course was terminated or significantly changed.
- Each provider shall maintain the following records for three years at a central location:
 - Classroom or seminar - roster for each classroom course or seminar identifying the instructor(s), the student, the course,

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the location, the date and hours of attendance, the completion date, the examinations and the results of any examinations administered.

- Self-study or interactive computer - name of student, name of course, date of completion, the examinations, and the results of examinations, and other applicable proof of completion.

- Each provider shall provide to the Director a list of students who have successfully completed a pre-licensing or continuing education course. The list shall be in a format and contain the information required by 319.5(b) or Exhibit D of this Part. Each list shall be received by the Director within ten days following the end of the week in which the course was completed. The list shall be compiled pursuant to the criteria established in Section 319.50(b) and (d) or Section 319.60(d) of this Part. ~~Issue to each student an Exhibit-C for pre-licensing, or Exhibit-B for continuing education pursuant to the criteria established in Section 319.50(b) or 319.60(d).~~
- Instructors shall meet the following minimum requirements: either a Bachelor's degree or three years experience in the course subject matter. Providers must maintain evidence of such qualifications while the instructor is actively engaged in instructing the course and for one year thereafter.

- Providers shall, upon the request of the Director, provide a copy of all course material, provider records, and evidence of instructor's qualifications to the Director. All such requests shall be subject to a warrant of the Director and for the express purpose of gauging compliance with the Illinois Insurance Code and Departmental regulations pertaining thereto.

- The Director may make arrangements, including contracting with an outside service administrator, for the purpose of administering and collecting of the educational data from the providers. Under such an arrangement all, or a portion of, the reporting requirements of the provider shall be made to the servicing administrator. Appropriate fees shall be paid to the designated service administrator by the providers for services rendered.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 319.40 Responsibilities of Applicant Applicants for Insurance Producer Licenses and Licensed Insurance Producers

- Applicants for Insurance Producer Licenses Prior to taking the licensing examination each applicant shall complete the pre-licensing education requirements for each class of insurance for which an examination is being taken. The pre-licensing education course must be used within one year of completion. Each applicant shall submit the original proof of completion (Exhibit-C) of the requirements to the test administrator at the examination site

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- ~~prior to taking the examination:~~
b) Licensed Insurance Producers
- 1) Each producer shall complete at least 25 hours of continuing education requirements prior to requesting an extension of an insurance producer license. The producer should complete the course no later than four weeks prior to the license extension date to allow time for the provider to submit proof of completion to the Director. ~~An original proof of completion form is set forth in Exhibit B; it shall be submitted to the Director at the time extension of the license is requested.~~
 - 2) Hours taken, course material provided, or presented in whole or in part, or in conjunction with a pre-licensing course which is not certified as pre-licensing education requirement shall not be used to meet continuing education requirements.
 - 3) Courses initiated or completed prior to the original issue date of the license shall not be used to meet continuing education requirements.
 - 4) The credit hours will be applied in the order they are received by the Department.
(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3119.50 Prelicensing - Course of Study Requirements

- a) The certification form must be received by the Director at least 30 days prior to any course being offered.
 - b) A course to be certified by the provider as a pre-licensing course of study shall meet the content requirements of Section 494.1(a) of the Illinois Insurance Code [215 ILCS 5/494.1] ~~read: and the distribution requirements as set forth in Exhibit E, F, G or H of this Part, whichever is applicable.~~
 - c) For purposes of this Section, the minimum number of hours may be made up of any combination of classroom, seminar, or self-study or interactive computer hours. A self-study course must have an examination.
 - d) No credit shall be given for a self-study course if the student does not successfully complete the examination. If the student fails an examination and successive examinations are given, the successive examinations must be substantially different from each other.
- 1) No students shall evaluate their own examination.
 - 2) The evaluation of the examination must be completed by the provider.
 - 3) No provider shall furnish the answers to an examination prior to the student completing the examination.
(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3119.45 Responsibilities of Applicant for Insurance Producer Licenses and Licensed Insurance Producers

- Effective January 1, 1997 Section 3119.40 of this Part shall be repealed and Section 3119.45 shall take effect on _____.
- a) Applicants for Insurance Producer Licenses
Prior to taking the continuing education, each applicant shall complete the pre-licensing education requirements for each class of insurance for which an examination is being taken. The pre-licensing education course must be used within one year after completion.
 - b) Licensed Insurance Producers
1) Each producer shall complete 15 hours of continuing education requirements prior to requesting an extension of an insurance producer license. The producer should complete the course no later than four weeks prior to the license extension date to allow time for the provider to submit proof of completion to

Section 3119.60 Continuing Education Requirements

- a) The certification form must be received by the Director at least 30 days prior to any course being offered.
- b) For the purposes of this Section, "full credit" shall mean the amount of time as certified by the provider that is necessary for a student to study for and pass an examination, or in the case of a course with no examination, the number of documented classroom

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attendance hours.

- c) Courses shall be intended to increase the knowledge and understanding of insurance principles and coverages, applicable laws, and insurance regulations. Marketing, motivation, prospecting and psychology may be included if such material is incidental to and an integral part of the course. To be considered as incidental, the number of hours may not exceed 50% of the total number of hours devoted to acceptable basic course material. The following courses shall not be considered for continuing education:

- 1) Courses used for insurance pre-licensing training or insurance qualifying examination preparation.
- 2) Courses teaching general business, general accounting, management, communication, computer operation and other courses whose subject matter does not increase the knowledge of insurance principles and coverages, applicable laws, and insurance regulations.
- 3) Courses with less than three hours of certified continuing education credit.

- d) The value of course credit for the purposes of this Section shall be determined as follows:

- 1) Supervised Examinations
 - A) Successful Completion
Students who successfully complete a supervised examination will receive full credit for the course.
 - B) Unsuccessful Completion
Students who do not successfully complete a supervised examination shall receive one hour of credit for each hour of documented classroom attendance not to exceed 50% of full credit.

2) Non-Supervised Examination

- A) Successful Completion
Students who successfully complete a non-supervised examination will receive full credit for the course.
- B) Unsuccessful Completion
Students who do not successfully complete a non-supervised examination will receive no credit.

- 3) Courses Without Examination
Students will receive credit for documented attendance based on the certified hours assigned to the course.

4) All Examinations

- A) No students shall evaluate their own examination. The evaluation of the examination must be completed by the provider.
- B) No provider shall furnish the answers to an examination prior to the student completing the examination.
- C) Credit shall be given based only upon the results of the examination the first time the examination is completed by the student.

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5) LTLC and LTCP Training Credit

- A) Continuing education credit may be earned based on the criteria established in subsection (d) of this Section.
- B) Training credit may be obtained after a failed examination if the provider gives, and the student successfully completes, a substantially different examination.
- C) If a student receives training credit only, the provider shall issue a proof of completion certificate to the student but the certificate shall be prominently stamped "NO CON-ED CREDIT".

- e) No additional credit will be given to a producer for a repeated course unless three years have passed since credit was given for the course that has been successfully completed and for which the producer has previously received credit.

- f) The maximum credit a producer can receive for any one course is 25 hours.

- g) Effective January 1, 1997, Section 3119.60(f) of this Part shall be repealed. The maximum credit for any course is 15 hours.

- h) Continuing education instructors may receive continuing education credit for courses they teach. The credit earned shall be determined pursuant to the criteria established in this Section.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 3119.70 Course and Provider Disqualification

- a) The Director may disqualify any provider and/or any provider's course(s) if the Director finds that:

- 1) the provider or course has not met the requirements of this Part;
- 2) the provider has made a material misstatement or intentional misrepresentation on a certification form filed with the Director; a misstatement will be considered material if the course would not have been certified in the absence of such statement;
- 3) the provider has intentionally misrepresented itself or its course to students or prospective students;
- 4) The provider has violated any commitment made in the request for certification and supplementary attachments thereto including failure to maintain the standards and method of operation set forth in the request for certification and any supplementary attachments thereto;

- 5) the provider has employed instructors who do not meet the requirements of Section 3119.30(e) of this Part;

- 6) the provider is deemed by the Director to have failed to act in good faith in providing a course. A failure to act in good faith may only be evidenced by the following:

- A) a student pass/fail ratio inconsistent with those of other

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

providers for courses which are similar in content and difficulty;
B) the number of complaints received by the Director which specifically relate to the provider's course(s);
C) provides to the student a proof of completion form which contains false or incomplete information;
D) provides to the student a partially completed proof of completion form;

7) the provider has failed to maintain the materials and records pursuant to Section 3119.30 of this Part;

8) the provider failed to furnish upon request of the Director to provide the Director with information and records required by Section 3119.20 of this Part; or the provider supplied provided false or incomplete information to the Director.

9) the provider frequently fails to furnish the Director with an accurate statement of the provider's business activity during the end of the week in which the course was completed;

10) The provider has, while conducting business as a provider, used fraudulent or dishonest practices which have demonstrated incompetence or unworthiness;

b) Disqualification. A provider of a course pursuant to Section 3119.10 shall be by written order of the Director and shall be sent to the provider by certified or registered mail at the address specified in the records of the Department. The provider may, within 30 days of the hearing in writing, in accordance with Ill. Adm. Code 214.0, within 30 days from the date of mailing. If no written request is made, such order shall be final upon the expiration of said 30 days.

c) If the provider requests a hearing pursuant to this Section within 30 days, then the Director shall issue within 30 days of receipt of such request a written notice of hearing to the provider by certified or registered mail and it will be sent to the provider at the address specified in the records of the Department. Such notice of hearing must state: 7-and-stating:

1) The grounds, charges and order which justifies disqualification under this Section;
2) A specific time for the hearing, which may not be less than 30 days after the date of mailing of the notice of hearing; and

3) A specific date for the hearing.


d) Upon disqualification, the provider shall immediately discontinue offering the course(s) as a provider of courses. The Director shall publish all final disqualifications.

e) In any order of disqualification, the Director shall give consideration of credentials to present students.

(Source: Amended at 2) Ill. Reg. _____, effective _____)

ILLINOIS REGISTER
DEPARTMENT OF INSURANCE
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Section 3119. EXHIBIT A REQUEST FOR CERTIFICATION OF A PRELICENSING COURSE

Please Print or Type: Provider's Name		Federal Employer's ID
Provider's Address (street, city, state, zip code)		Social Security # (individual)
Contact Person	1. Published Phone #	2. Phone # for Contact Person
Course Title	First date course to be offered	Public Education Yes () No ()
Class of Insurance to which Course is Applicable	Property	Casualty
Life	Accident & Health	Motor Vehicle
INSTRUCTIONS		
1. DO NOT SEND PAYMENT WITH THIS REQUEST. Upon approval you will be billed the appropriate fee. 2. Submit a separate Exhibit A for each class of insurance. 3. In addition to this request, please submit a timed course outline in accordance with Exhibit E, F, G and H of Rule 311.2. 4. Record all times in hours. 5. If using a publisher's course, submit a copy of the title page with date of copyright and exam method, if any. Please indicate in the boxes below the amount of time you will spend on each type of instruction method. 1 = Classroom only. 2 = self study only. 3 = interactive computer only. 4 = combination method only.		
Type of Instruction	Method	
Classroom or Seminar Hours	1 2 3 4	
Self Study Hours		
Must have exam		
Interactive Computer Hours		
Other Hours		
Exam Hours		
Total Number of Credit Hours Requested		
Exam Method: S-Supervised N-Not supervised O-Oral Exam		
		
We certify the above information is accurate and failure to comply with 50 Ill. Adm. Code 311.9 may result in disqualification.		
Signature _____		Date _____
Printed Name _____		Title _____

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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ILLINOIS DEPARTMENT OF INSURANCE
320 WEST WASHINGTON STREET
SPRINGFIELD ILLINOIS 62762
BPEB:VIB:--04/01/91

PROVIDER'S NAME:-----
FEDERAL EMPLOYERS' LIABILITY SECURITY NO.:-----
PROVIDER'S ADDRESS:-----
PROVIDER'S LICENSE NUMBER:-----
COURSE TITLE:-----
FIRST DATE COURSE TO BE OFFERED:-----
CLASS OF INSURANCE TO WHICH COURSE IS APPLICABLE:-----
TYPE:----- ACCIDENT & HEALTH ----- PROPERTY ----- CASUALTY & MOTOR VEHICLE

INSTRUCTION METHOD/HOURS

NUMBER OF CLASSROOM HOURS:-----

NUMBER OF SEMINAR HOURS:-----

NUMBER OF CORRESPONDENCE (SELF-STUDY) HOURS:-----
(NOTE:-- MUST HAVE EXAMINATION)

NUMBER OF OTHER HOURS (EXPLAIN):-----

NUMBER OF EXAMINATION HOURS:-----

TOTAL NUMBER OF HOURS REQUESTED:-----

IS COURSE AVAILABLE TO PUBLIC:----- YES ----- NO

IF USING A PUBLISHER'S COURSE, SUBMIT A COPY OF THE PAGE AND PAGE WITH DATE OF COPYRIGHT. IF NOT USING PUBLISHER'S TEST, SUBMIT COURSE OUTLINE.

SUBMIT SEPARATE EXHIBIT A FOR EACH CLASS OF INSURANCE.

we so certify that the course meets all the applicable requirements of the
Illinois Department of Insurance and Public Safety and the course is
being offered by the Illinois Department of Insurance and Public Safety
representatives of the Illinois Department of Insurance and Public Safety

Signature:-----
Name:-----
Title:-----
Date Submitted:-----

FOR USE BY THE OFFICE OF THE DIRECTOR OF INSURANCE ONLY

DEPARTMENT OF INSURANCE

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Course certified for:----- Prelicensing-Education-credit-hours:
Course not certified for:----- Prelicensing-Education-credit-hours:

Comments:

By:-----
(Source: Amended at 20 Ill. Reg. -----, effective -----)

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Signature-----
Name-----
Title-----
Date-Submitted-----

PER USE BY THE OFFICE OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE-ONLY

Source-certified-for-----continuing-education-credit-hours-
Source-not-certified-for-continuing-education-credit-hours-

Comments:

By:-----

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE
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Section 319, EXHIBIT C PROVIDER LIST - PROOF OF COMPLETION FOR PRE-LICENSING
EDUCATION PRE-LICENSING EDUCATION PROOF OF COMPLETION

Information must be printed or typed or Computer Generated.		Credit Hours (15 maximum) 12 MVA
Course Number	Course Title	
Reporting Period (month, day, year)	Date Submitted	
Certified Provider Name	Provider Federal Employer's ID Number (FEIN)	Provide Social Security Number if an individual.
I certify that the information in this provider list is true and correct to the best of my knowledge, and that a false statement is cause for provider disqualification.		
Authorized Signature of Provider	Printed Name of Provider	Date
Printed Name of Authorized Signature	Printed Name of Instructor	
INSTRUCTIONS		
1. Providers must submit a list of course data and student data as illustrated in the format on this form to the Department or to the Department's designee.		
2. For every course completed, the list must be received within 10 days of the end of the week in which the course was completed. Submit a list for each course completed during the reporting period and arrange the student names in alphabetical order by date of completion. Early submissions are welcome.		
3. If additional space is needed to accommodate the student list, each page should be headed as follows.		
COURSE NUMBER	PROVIDER NAME	REPORTING PERIOD
SOC. SEC. NUMBER	STUDENT NAME	CLASS (IL ALP, MC)
		DATE COURSE COMPLETED
1.		
2.		
3.		
4.		
5.		
6.		
7.		

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 3119. EXHIBIT D PROVIDER LIST - PROOF OF COMPLETION FOR CONTINUING EDUCATION CONTINUING EDUCATION - PROOF OF COMPLETION

Information Must Be Printed or Typed or Computer Generated.

Course Number	Credit Hours (as maximum, 15 ILCS)
Course Title	
Reporting Period (Month, Day, Year)	Date Submitted
Certified Provider Name	
Provider Federal Employer's ID Number (FEIN)	Provider Social Security Number (if an individual)

I certify that the information in this provider list is true and correct to the best of my knowledge, and that a false statement is cause for provider disqualification.

Authorized Signature of Provider _____ Date _____

Printed Name of Authorized Signature _____ Printed Name of Instructor _____

INSTRUCTIONS

1. Providers must submit a list of course data and student data as illustrated in the format on this form to the Department or to the Department's designee.
2. For every course completed the list must be received within 10 days of the end of the week in which the course was completed. Submit a list for each course completed during the reporting period and arrange the student names in alphabetical order by date of completion. Early submissions are welcome.
3. If additional space is needed to accommodate the student list, each page should be headed as follows.

COURSE NUMBER	PROVIDER NAME	REPT PERIOD
4. The student "credit earned" column does not have to be completed unless the hours earned are less than full credit.		
SOC. SEC. NUMBER	STUDENT NAME	CREDIT EARNED
		DATE COURSE COMPLETED

(Source: Amendment 20 Ill. Reg., effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE
EFFECTIVE DATE 01-01-00

INFORMATION MUST BE PRINTED OR TYPED

STUDENT'S NAME _____

STUDENT'S SOCIAL SECURITY NUMBER _____

STUDENT'S ADDRESS _____

COURSE _____ CLASS _____

INSURANCE _____ COMPLETED _____

NUMBER _____

I hereby certify that the above information is true and correct to the best of my knowledge and belief, and that a false statement is cause for provider disqualification.

Student's Signature _____ Date _____

Name of Certified Provider _____ SSN of Certified Provider _____

I hereby certify that the above information is true and correct to the best of my knowledge and belief, and that a false statement is cause for provider disqualification.

Authorized Signature of Provider _____ Date _____

Printed Name of Authorized Signature _____ Printed Name of Instructor _____

DO NOT OMIT IDENTIFICATION AND COURSE NUMBERS OR YOUR REQUEST WILL BE HONORED.

(Source: Amended at 20 Ill. Reg., effective _____)

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE

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STATE OF ILLINOIS
DEPARTMENT OF INSURANCE
REGULATIVE--01-01-94
INFORMATION MUST BE PRINTED OR TYPED

PROBECR'S NAME=====

PROBECR'S SOCIAL SECURITY NUMBER=====

COURSE NUMBER=====

COURSE TITLE=====

DATE COMPLETED=====

CREDIT HOURS EARNED===== (25-maximum for one course)

CERTIFIED PROVIDER NAME=====

PROVIDER REGISTRATION NUMBER (P.R.N.)=====

PROVIDER SOCIAL SECURITY NO. (if provider is an individual)=====

I hereby certify that the above information is true and correct to the best of my knowledge and belief, and that a false statement is cause for denial or suspension or revocation of license.

Provider's Signature

Date

I hereby certify that the above information is true and correct to the best of my knowledge and belief, and that a false statement is cause for denial or suspension or revocation of license.

Authorized Signature for Provider

Date

Printed Name of Authorized Signature Printed Name of Insurer

It is important that this form be completed and sent to the Department of Insurance as soon as possible after the provider's license is issued. The first four years following the original license issue date.

DO NOT OMIT IDENTIFICATION AND COURSE NUMBERS OR YOUR REQUEST WILL NOT BE HONORED.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

Section 3119. EXHIBIT E COURSE OF STUDY CLASS-OF-INSURANCEB - LIFE

Course of Study Content Requirements Time Distribution Requirements

I. Types of policies and coverages 32%

- A. Endowment
- B. Term
 - 1. Level term
 - 2. Decreasing term
- C. Whole Life
- D. Limited Pay policies
- E. Combination plan
- F. Other types of policies:
 - 1. Modified life
 - 2. Family plans
 - 3. Deposit term
 - 4. Universal life
- G. Annuity
- H. Accidental death and dismemberment
- I. Uses in term insurance
- J. Uses in whole life insurance
- K. Group life
- L. Industrial insurance

II. Policy provisions, options and benefits 40%

- A. Entire contract
- B. Insuring clause
- C. Free look
- D. Consideration clause
- E. Owner's rights
- F. Primary and contingent beneficiaries
- G. Change of beneficiary
- H. Grace period
- I. Automatic premium loan
- J. Reinstatement
- K. Policy loan
- L. Surrender options
- M. Dividends and dividend options
- N. Guaranteed renewable policies
- O. Irrevocability
- P. Assignment
- Q. Suicide

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- R. Misstatement of age
- S. Settlement options
- T. Waiver of premiums
- U. Accidental death benefit
- V. Term riders
- W. Exclusions
- X. Conversion Options (individual and group)

III. Completing the application and delivering the policy 16%

- A. Completing the application and obtaining necessary signatures
- B. Warranties and Representations
- C. Complying with provision of Fair Credit Reporting Act and Illinois Insurance Privacy Act
- D. Explaining the effect of the application with money
- E. Explaining the effect of the application without money
- F. The underwriting process
- G. Delivery and explanation of the policy

IV. Taxes, retirement and other insurance concepts 12%

- A. Insurable interest
- B. Third party ownership
- C. Individual tax shelter plans, IRA, Keogh and TSA
- D. Social Security benefits and taxes
- E. Tax treatment of premiums and proceeds of insurance contracts
- F. Determination of premiums
 - 1. Mortality
 - 2. Interest
 - 3. Expenses
- G. Policy reserves

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

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Section 3119, EXHIBIT F CLASS-OF-INSURANCE COURSE OF STUDY - ACCIDENT/HEALTH

Course of Study Content Requirements

I. Types of policies and coverages

30%

- A. Disability income
- B. Accidental death and dismemberment and other indemnity plans
- C. Medical expense insurance
- D. Medicare and Medicare supplements
- E. Medicaid
- F. Limited coverage plans (cancer plans and travel accident)

II. Policy provisions, options and benefits

30%

- A. Entire contract
- B. Insuring clause
- C. Free look (ten day, twenty day)
- D. Consideration clause
- E. Owner's rights
- F. Change of beneficiary
- G. Grace period
- H. Probationary (waiting) period
- I. Reinstatement
- J. Time limit on certain defenses
- K. Misstatement of age
- L. Waiver of premiums
- M. Exclusions
- N. Payment of claims
- O. Notice of claims
- P. Claim forms
- Q. Proof of loss
- R. Legal actions
- S. Time of payment of claims
- T. Physical examinations and autopsy
- U. Change of occupation
- V. Illegal occupation
- W. Nonduplication and coordination of benefits (e.g., primary vs. excess benefits)
- X. Group Conversions

III. Completing the application and delivering the policy

10%

- A. Completing the application and obtaining necessary signatures
- B. Warranties and Representations
- C. Complying with provisions of Fair Credit Reporting Act and Illinois Insurance Privacy Act
- D. Explaining the effect of the application with money

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- E. Explaining the effect of the application without money
- F. The underwriting process
- G. Delivery and explanation of the policy

IV. Group insurance, taxation, and other insurance concepts

16%

- A. Group insurance
- B. Occupational vs. nonoccupational coverage
- C. Total vs. partial disability
- D. Social Security benefits and taxes
- E. Service organizations (e.g., Blue Cross/Blue Shield, HMO)
- F. Tax treatment of premiums and proceeds of insurance contracts (e.g., disability and medical expense)

V. Other provisions affecting insurance benefits

14%

- A. Deductibles
- B. Elimination (waiting) period
- C. Coinsurance
- D. Preexisting conditions
- E. Renewability provisions (e.g., noncancellable, guaranteed renewable, conditionally renewable, optionally renewable)
- F. Covered medical expenses

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Surface-Mined Land Conservation and Reclamation Act

2) Code Citation: 62 Ill. Adm. Code 300

3) Section Number: Proposed Action:

300.200	New
300.205	New
300.210	New
300.215	New
300.220	New
300.225	New
300.230	New
300.235	New
300.236	New
300.237	New
300.238	New
300.239	New
300.243	New
300.246	New
300.247	New
300.248	New
300.249	New
300.250	New

4) Statutory Authority: Implementing and authorized by Section 6.5 of the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715].

5) A complete description of the subjects and issues involved:

The rules enable the Department to effectively regulate all aspects of blasting operations at aggregate mines. Specifically, aggregate mine operators are required to maintain blasting records for Departmental inspection, control blasting operations to prevent personal injury and property damage and subject blasting operations to air blast/ground vibration monitoring. The rules establish an administrative enforcement scheme designed to punish violators of the blasting regulations and correct infractions of the terms of the blasting licenses issued by the Department.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

DEPARTMENT OF NATURAL RESOURCES

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10) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Kevin Kahl, Legal Counsel
Illinois Department of Natural Resources
Office of Mines and Minerals
524 South Second St
Springfield, IL 62701
Telephone: (217)782-6731

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 5:00 P.M. on April 29, 1996. Comments received thereafter will not be considered in this rulemaking.

The Department will hold public hearings on the proposed rulemaking as follows: March 28, 1996 at 6:30 P.M. at the Waubesa Community College, Route 47 at Harter Rd., Sugar Grove, Illinois; April 4, 1996 at 6:30 P.M. at the Illinois Department of Natural Resources, Office of Mines and Minerals, Jefferson Terrace, 3rd Floor Conference Room, 300 W. Jefferson Street, Springfield, Illinois; April 11, 1996 at 6:30 P.M. at the Illinois Department of Natural Resources, Office of Mines and Minerals, Southern Illinois Regional Office, 503 E. Main St., Benton, Illinois. Representatives of small businesses are encouraged to comment about the impact of the proposed rulemaking at this public hearing.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Aggregate mining operations which conduct blasting will be affected by this rulemaking (limestone, silica-sand and clay mines). Some of these operations may be small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: Operators will be required to maintain blasting records for at least three years.

C) Types of professional skills necessary for compliance: All blasting operations must be conducted or supervised by trained and competent

DEPARTMENT OF NATURAL RESOURCES

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persons licensed by the Department.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES MINES-AND-MINERALS

PART 300

SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

Section	
300.10	Introduction
300.20	Permits
300.30	Fees
300.40	Bonds
300.50	Permit Application Requirements
300.60	Role of County Government in Reclamation
300.70	Departmental Consideration of Reclamation Plans
300.80	Public Filing of Approved Plans
300.90	Amendments to Permits
300.100	Reclamation Planning
300.110	General Reclamation Requirements
300.120	Criteria For Types of Land Reclamation
300.130	Reclamation of Gob Disposal Areas and Outside Slopes of All Overburden Deposition Areas
300.140	Reclamation of Slurry Pond Disposal Areas
300.150	Water Impoundment Structures
300.160	Affected Acreage Map
300.170	Violations and Forfeiture
300.180	Bond Release Procedure
300.200	Scope
300.205	Purpose
300.210	Definitions
300.215	General Requirements
300.220	Monitoring
300.225	Use of Explosives; Control of Adverse Effects
300.230	Use of Explosives; Blasting Signs, Warnings and Access Control
300.235	Training
300.236	Examination
300.237	Application and Licensure
300.238	Fees
300.239	Denial, Issuance of Notice of Infraction, Suspension, Revocation and Other Administrative Actions
300.245	Notices of Violation
300.246	Cessation Orders
300.247	Office of Mines and Minerals Decision
300.248	Hearings
300.249	Temporary Relief
300.250	Subpoenas
ILLUSTRATION A	Tree Sampling Procedure
ILLUSTRATION B	Typical Sections

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AUTHORITY: Implementing and authorized by the Surface Mined Land Conservation and Reclamation Act (225 ILCS 715).

SOURCE: Adopted January 6, 1976; codified at 8 Ill. Reg. 4507; amended at 14 Ill. Reg. 3548, effective February 22, 1990; amended at 20 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 300.200 Scope

These rules shall cover the use of explosives in non-coal mineral extraction operations pursuant to P.A. 89-26, enacted June 23, 1965. They are intended to supplement and not supersede the requirements of any other federal or Illinois statute or regulation. Inasmuch as the provisions of these regulations shall contradict such other statute or regulation, that statute or regulation shall control.

(Source: Added at 20 Ill. Reg. _____, effective _____.)

Section 300.205 Purpose

The purpose of these regulations is to ensure that blasting operations are conducted to prevent injury to persons and damage to public and private property.

(Source: Added at 20 Ill. Reg. _____, effective _____.)

Section 300.210 Definitions

"Airblast" (also known as "air overpressure") means airborne waves resulting from the detonation of explosives. Airblast may be caused by burden movement or the release of expanding gas into the air. Airblast may or may not be audible.

"Act" means the Surface Mined Land Conservation and Reclamation Act (225 ILCS 715).

"Authorized representative of the Department" means an employee of the Illinois Department of Natural Resources, Office of Mines and Minerals, qualified to conduct on-site inspections of blasting operations in order to determine compliance with these regulations.

"Blast" means the detonation of explosives by an operator for a mineral extraction operation.

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"Licensed Blaster" means the person authorized to oversee and approve blasting operations on a blasting site.

"Blasting Zone" means any area within the operation that is designated in writing by the operator to the Department as being the area within which blasting operations will be conducted.

"Blasting Operations" means the process of shot design, layout, drilling, loading, detonation and recordkeeping.

"Burden" means the distance from an explosives charge to the nearest free or open face at the time of detonation of each hole.

"Continuing Violation" means a violation of these rules that is ongoing and unabated at the time of inspection.

"Decibel" means the unit of sound overpressure commonly used to measure airblast from the detonation of explosives. It is also measured in pounds per square inch (p.s.i.), and is defined in terms of the overpressure by the equation:

$$db = 20 \log P/P(0)$$

where:

dB = sound level in decibels

P = measured overpressure in p.s.i. (lbs./in.²)

P(0) = 2.9 x 10⁻⁹ p.s.i. (lbs./in.²)

The decibel scale is logarithmic.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Illinois Department of Natural Resources.

"Explosives" means any chemical mixture that reacts at high velocity to liberate gas and heat, causing very high pressures.

"Office of Mines and Minerals" means the subdivision of the Department of Natural Resources charged with regulating the use of explosives in non-coal mineral extraction operations pursuant to P.A. 89-26, enacted June 23, 1995.

"Operation" means the property limits of any non-coal mineral extraction operation.

"Operator" means the person having the right to enter upon the operation for the purpose of mineral extraction.

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"Particle Velocity" is a measure of ground vibration which describes the velocity at which a particle of ground moves when excited by a seismic wave.

"Person" means any individual, partnership, corporation or other legal business entity.

"Protected structure" means any dwelling, public building, school, church or commercial or institutional building. Protected structures do not include:

Structures owned by the person conducting the blasting activity; and

Structures subject to a waiver from the Department's airblast and ground vibration requirements granted to the person conducting the blasting activity.

"Scaled Distance" means the distance, in feet, from the blast to a specified location, divided by the square root of the maximum weight of explosives, in pounds, to be detonated in any eight (8) millisecond period.

"Stemming" is inert material (usually crushed stone) that is placed above the explosives column, or vertically between columnar decks of explosives in a blast hole.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.215 General Requirements

- a) Each person who conducts blasting operations shall comply with all applicable State and federal laws governing the use of explosives.
- b) All blasting operations shall be conducted under the direct supervision of a licensed blaster (persons licensed by the Department, as provided in Section 300.237 of this Part). The licensed blaster shall be present at the detonation of the blast.
- c) All blasting shall be conducted between sunrise and sunset except in emergency situations where unscheduled blasting is required to ensure operator or public safety. In such cases, the operator shall notify the Department in writing within 24 hours after the unscheduled blast. Stating the reason(s) for the unscheduled blast. After review of the notification, the Department shall determine whether the unscheduled blast was an emergency and take enforcement action if necessary.

(Source: Added at 20 Ill. Reg. _____, effective _____)

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Section 300.220 Monitoring**a) Duties of the Operator**

- 1) When the scaled distance has a value less than sixty-five (65) at the closest protected structure, the operator shall make a seismographic recording and airblast recording at or near that structure.
- 2) When the burden to hole depth ratio is greater than 1.0, or the top stemming height is less than seventy percent (70%) of the burden dimension, the airblast produced by the blast shall be measured at or near the closest protected structure within two (2) miles from any blast hole, recorded, analyzed, and reported pursuant to subsections (a)(3)(A) and (a)(3)(B) below. This subsection shall not apply to horizontal blast holes drilled from the floor of the pit.
- 3) The operator shall maintain blasting records as follows:
 - A) A record of each blast shall be made, retained by the operator for at least three (3) years and made available for inspection by the Department. Records of blasts conducted since the Department's last inspection, or copies of such blasting records, shall be made available at the operation for inspection by the Department. The record is to be completed by the end of the work day following the day in which the blast occurred, including the seismograph meter reading, if available, and shall contain the following data:
 - i) Name of the operator conducting the blast.
 - ii) The location, date and time of the blast. If necessary to enforce the purposes of these regulations, the Department may require that the location of the blast be indicated as a point on a state plane coordinate system.
 - iii) Name, signature and licensure number of the licensed blaster responsible for the blast.
 - iv) Type of material blasted.
 - v) Number of holes, burden and spacing.
 - vi) Diameter and depth of holes.
 - vii) Type of explosives used.
 - viii) Total weight of explosives used.
 - ix) Weight of explosives used per hole.
 - x) Maximum weight of explosives detonated within any eight (8) millisecond period.
 - xi) Maximum number of holes or decks detonated within any eight (8) millisecond period.
 - xii) Initiation system, including number of circuits and the timer interval, if a sequential timer is used.
 - xiii) Type and length of stemming (deck and top).
 - xiv) Type of detonator and delay periods used, in milliseconds.

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- xv) Sketch of delay pattern, including decking.
- xvi) Distance and scaled distance to the closest protected structure, using the best available information.
- xvii) Location or address of the closest protected structure, using the best available information.
- B) Air blast and/or ground vibration recordings, or photographs, copies thereof, where required by the Department, shall be kept for a period of three (3) years following the date of the blast, and shall be available for inspection by the Department. Records of blasts conducted since the Department's last inspection, or copies of such blasting records, shall be made available at the operation for inspection by the Department. The recordings shall include the following information:

- i) Maximum airblast and/or ground vibration levels recorded.
 - ii) The specific location of the monitoring equipment, its distance from the blast and the date and time of the recording.
 - iii) Name of the person and firm making the recording.
 - iv) Name of the person and firm analyzing the recordings. The recording shall be signed and dated by the person performing the analysis.
 - v) The type of instrument, sensitivity and calibration signal or certification date of annual calibration.
- C) As used herein, "seismographic recording", or "record of airblast recording", or "record" shall mean a visually inspectable cartesian representation of the time history of the particle velocity in a blast event. The particle velocity is shown by three traces representing mutually perpendicular components of motion. The components are oriented vertically, transversely and longitudinally to the horizontal direction from the recording location to the location of the blast. The record of recording includes either an analog representation, or a written description of the blast event, or a combination of the two, and the airblast trace. The units for the particle velocity traces and scale are in inches per second. The units for the airblast trace and scale are millibars, pounds per square inch, or decibels. The recording shall also include an analog or descriptive time scale. The time units are in seconds.

b) Duties of the Department:

- 1) The Department shall conduct seismographic monitoring at any operation at such times and conditions as the Department deems appropriate.
- 2) The Department shall conduct inspections of the operation as

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follows:

- A) Randomly without notice twice per year.
 - B) At such other times and conditions as the Department deems appropriate.
 - C) Less frequently than twice per year at operations where blasting is not regularly conducted.
- 3) All Department employees conducting official business shall inform the operator or the operator's designated representative, if either is present, upon arrival to and departure from the operation.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.225 Use of Explosives: Control of Adverse Effects

- a) Blasting shall be conducted to prevent injury to persons and damage to public or private property outside the blasting zone.
- b) Airblast limits

1) Airblast shall be controlled so that it does not exceed the values specified below at any protected structure, unless such structure is owned by the person who conducts the surface mining activities and is not leased to any other person. If a building owned by the person conducting surface mining activities is leased to another person, the lessee may sign a waiver relieving the operator from meeting the airblast limitations of this subsection. The waiver shall be submitted to the Department before conducting blasting operations in accordance with the terms of the waiver.

Lower frequency limit of measuring system, Hz + 3dB	Maximum level in dB
---	---------------------

0.1 Hz or lower--flat response	134 peak
2.0 Hz or lower--flat response	133 peak
6.0 Hz or lower--flat response	129 peak

- 2) The measuring systems used shall have a flat frequency response of at least two hundred (200) Hz at the upper end.
- 3) The person who conducts blasting may satisfy the provisions of this subsection (b) by meeting any of the three (3) specifications in the chart in subsection (b)(1).
- 4) To ensure compliance with the limits contained in this Section, the Department may require an airblast measurement of any or all blasts, and may specify the location of such measurements.

c) Flyrock

Flyrock, including blasted material traveling in the air or along the ground, but excluding dust and detonation by-products, shall not be

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cast beyond the blasting zone.

- d) Ground vibration limits.
In all blasting operations, except as otherwise authorized in this Section, the maximum peak particle velocity shall not exceed one (1) inch per second at the location of any protected structure, unless such structure is owned by the person who conducts the surface mining activities and is not leased to any other person. If a building owned by the person conducting surface mining activities is leased to another person, the lessee may sign a waiver relieving the operator from meeting the ground vibration limitations of this subsection. The waiver shall be submitted to the Department before conducting blasting operations in accordance with the terms of the waiver.
- e) When the scaled distance has a value less than sixty-five (65) at the nearest protected structure, a seismograph recording shall be made at or near that structure. To ensure compliance with the limits contained in this Section, the Department may require a seismograph recording of any or all blasts and may specify the location at which such recordings are made.
- f) In lieu of the ground vibration limit in subsection (d) above, the operator may submit a written request to the Department to use an alternative compliance method. Such written request must be supported by sufficient technical information, which may include, but is not necessarily limited to, documented approval of such method by agencies in other states which regulate blasting operations at coal and/or non-coal mineral extraction operations. Upon submittal by the operator of a request to use an alternative compliance method, the Department shall issue a written determination as to whether the technical information submitted provides sufficient justification for the alternative method to be used as a means of demonstrating compliance.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.230 Use of Explosives; Blasting Signs, Warnings, and Access Control

- a) Specifications. Signs and markers required under this Part shall:
- 1) Be posted and maintained by the person who conducts the surface mining activities;
 - 2) Be of uniform design that can be easily seen and read; and
 - 3) Be made of durable material.
- b) Duration of maintenance. Signs and markers shall be maintained during the conduct of all activities to which they pertain.
- c) Blasting signs. The operator shall:
- 1) Conspicuously display blasting sign(s) along the edge of any blasting zone that comes within one hundred (100) feet of any public road right-of-way, and at the point where any other road

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provides access to the blasting zone; and

- 2) At all entrances to the operation from public roads or highways, place conspicuous sign(s) which indicate explosives are used at the operation and which clearly list and describe the meaning of the audible blast warning and all-clear signals that are in use.
 - d) Warning and all-clear signals of different character or pattern that are audible within the blasting zone shall be given.
 - e) Access to the blasting zone shall be controlled to prevent the presence of unauthorized personnel during blasting until an authorized representative of the operator has reasonably determined:
 - 1) That no unusual circumstances, such as undetonated charges, exist; and
 - 2) That access to and travel in or through the area can be safely resumed.
- (Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.235 Training

- a) Training required herein, for those persons not previously trained in the subjects required herein, shall be conducted by either the Department, the operator or the operator's training representative. The operator's training representative may include but is not limited to junior colleges, consultants and explosives manufacturers. The training must meet the requirements of this Section.
- b) The training for blaster's licensure shall include instruction in:
- 1) The design and layout of blasts, including geology, topography and the proper use of delays.
 - 2) Control of ground vibration.
 - 3) Control of flyrock and airblast.
 - 4) Design and loading of boreholes.
 - 5) Priming and boosting.
 - 6) Tamping and stemming, including methods and materials.
 - 7) Blast initiation systems.
 - 8) The use of blasting machines.
 - 9) The use of circuit testing equipment.
 - 10) The general properties of explosives, including blasting agents and selection criteria.
 - 11) Ground vibration, airblast and monitoring.
 - 12) The use of ground vibration and airblast records as blast design factors.
 - 13) The need for accurate reports and blasting logs and their proper preparation.
 - 14) Current Illinois and Federal laws and regulations pertaining to blasting at the operation.
 - 15) Planning for unpredictable blasting hazards to the public and mine personnel. Illustrative examples are adverse weather, stray

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electrical currents, flyrock, radio frequency energy and misfires.

- 16) Signs, warning signals and other use of the potential flyrock area.
- 17) Site security and safety.
- 18) Blasting notices, if applicable.
- 19) Handling, transportation and storage of explosives.
- 20) New technology as it develops and is implemented in the field.
- 21) Training and certification requirements.

c) The licensed blaster shall provide direction and on-the-job training to all non-licensed blasting personnel under his supervision.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.236 Examination

a) Written examinations for blaster licensure shall be administered at least semi-annually, but not more than quarterly, on dates, times and at locations announced by the Department via news releases and direct communication with operators and individuals who request, in writing, to be so notified. Such notification shall be made at least sixty (60) days prior to the scheduled date of the examination. All persons scheduled for a regular examination session will be so notified at least one (1) week prior to the scheduled exam date. The Department may administer examinations more frequently than quarterly during a one (1) year period following adoption of these regulations.

b) Reexaminations shall be scheduled and administered, including required documents, for completeness and the accuracy of the statements contained in the application and required documents. The Department's acceptance of an application shall be based on the applicant's compliance with the requirements of this Part.

c) Each applicant shall be required to pass a written examination established and administered by the Department. The examination shall cover the subjects set forth in Section 300.235(b) of this Part. The minimum passing score shall be seventy percent (70%) correct answers. The Department retains the sole right to determine whether any or all responses to examination questions are correct.

d) Any applicant whose application is denied shall be so informed in writing, within thirty (30) days after the date the applicant is found to be not qualified. Reasons for such denial shall be included with the notification. Each applicant who meets the requirements of subsection (a) above and who passes the examination required in subsection (b) above shall be issued a blaster license as soon as practicable thereafter, but not more than forty-five (45) days after the examination date. Any applicant who meets the requirements of Section 300.237(a) but who does not pass the examination shall be so notified within fifteen (15) days of the examination date. That person may, upon written request, review his or her examination at the

(Source: Added at 20 Ill. Reg. _____, effective _____)

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Section 300.237 Application and Licensure

a) Each applicant shall submit a completed application for licensure in forms supplied by the Department. The application shall be accompanied by the required fee, which is non-refundable. In order to be scheduled for the next examination session, the application must be received by the Department not less than thirty (30) days prior to that examination date. The Department shall review each application promptly and complete the review of each application not less than fifteen (15) days following the date of receipt of the application. Any applicant whose completed application has been received, reviewed and accepted by the Department more than fifteen (15) days prior to a regularly scheduled examination session shall be scheduled for that session. Any applicant whose application has been received, reviewed and accepted less than fifteen days before a regularly scheduled session may be included with the next regularly scheduled session or the next reexamination session. The completed application shall include:

- 1) A notarized statement from the applicant's employer or a licensed blaster having personal knowledge of the applicant's blasting experience relating to the subjects listed in Section 300.235(b) of this Part, and affirming that the applicant has had at least two (2) years blasting experience.
- 2) Proof that the applicant has successfully completed a blaster training course or courses that cover the material listed in Section 300.235(b) of this Part.

b) The Department shall require each applicant, including required documents, for completeness and the accuracy of the statements contained in the application and required documents. The Department's acceptance of an application shall be based on the applicant's compliance with the requirements of this Part.

c) Each applicant shall be required to pass a written examination established and administered by the Department. The examination shall cover the subjects set forth in Section 300.235(b) of this Part. The minimum passing score shall be seventy percent (70%) correct answers. The Department retains the sole right to determine whether any or all responses to examination questions are correct.

d) Any applicant whose application is denied shall be so informed in writing, within thirty (30) days after the date the applicant is found to be not qualified. Reasons for such denial shall be included with the notification. Each applicant who meets the requirements of subsection (a) above and who passes the examination required in subsection (b) above shall be issued a blaster license as soon as practicable thereafter, but not more than forty-five (45) days after the examination date. Any applicant who meets the requirements of Section 300.237(a) but who does not pass the examination shall be so notified within fifteen (15) days of the examination date. That person may, upon written request, review his or her examination at the

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Department's Springfield office. Such request must be made and the review completed not less than ten (10) days prior to the reexamination date for which the applicant is scheduled. The review must be done during the Department's regular business hours. Any person who does not pass the examination shall be scheduled for the next reexamination session, pursuant to Section 300.236(b) of this Part.

e) An employed blaster shall have his or her license readily available for inspection at the operation.

f) A temporary blaster license will be issued to any individual who applies to the Department for such licensure and who provides a photocopy of his or her valid blaster license issued in another state, or the name of the state where the license was issued and the license number. The period of the temporary blaster license shall not exceed six months from the date of issuance. Such a temporary license shall be issued only once to any individual in any continuous five (5) year period.

g) Each license shall be valid for five (5) years from the date of issuance. Renewal following expiration shall be in accordance with the application, examination and licensure requirements of this Part.

h) Blaster licensure shall not be assigned or transferred.

i) Blasters shall not delegate their responsibility to any individual who is not a licensed blaster.

j) The blaster shall take reasonable precaution to protect his or her license from loss, theft or unauthorized duplication. Such loss, theft or duplication shall be reported to the Department without delay.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.238 Fees

The following fees shall be paid to the Department for administration of the Act and are non-refundable. The fees submitted shall be in the form of a cashier's check or money order and made payable to the Department of Natural Resources, Office of Mines and Minerals.

a) The fee for an application is \$75.00.

b) The fee for reexamination of an applicant is \$25.00.

c) The renewal fee for a license is \$75.00.

d) The fee for a temporary license is \$75.00.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.239 Denial, Issuance of Notice of Infraction, Suspension, Revocation and Other Administrative Actions

a) The Department shall deny an application for, or may revoke or

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suspend, a license under the provisions of this Section if the Department finds that the applicant or licensee:

1) has willfully violated any provisions of the Act or this Part;

2) has made material misstatement or knowingly withheld information in connection with any original or renewal application;

3) has been declared incompetent by any competent court by reasons of mental or physical defect or disease unless a court has since declared him competent;

4) consumes alcohol or unlawfully uses drugs in the workplace;

5) has been convicted in any jurisdiction of any felony within the prior 5 years;

6) is a fugitive from justice.

b) Notice of Infraction

1) The Department shall, when in the best interest of protecting public safety or public or private property, issue to the blaster a written notice of infraction requiring remedial action when, on the basis of any inspection, the Department determines that the blaster has committed any of the following infractions:

A) Noncompliance with current Illinois or Federal law or regulations pertaining to blasting at the operation, including the Illinois Explosives Act (225 ILCS 210).

B) Providing false information or a misrepresentation to obtain licensure.

C) Consumption of alcohol or unlawful use of drugs in the workplace.

D) Noncompliance with any order issued by the Department.

2) The maximum time allowed to abate the infraction by completing the remedial action shall be stated in the notice and shall include consideration of the nature of the infraction, as well as the availability of resources to complete the abatement. Remedial actions may include, but need not be limited to, a requirement to receive additional training or undergo reexamination to demonstrate competence. A copy of such notice shall be forwarded to the blaster's employer. Any such notice may be terminated when the remedial action has been completed, modified to correct deficiencies or errors or make other changes in the notice or to change the required abatement date, or vacated if the infraction did not occur or occurred as the result of sabotage by persons other than the blaster.

3) The blaster may file a request for review with the Department, and if desired, a hearing within thirty (30) days after the receipt of the notice of infraction. The request shall include the blaster's name, licensure number, identification of the notice, and the date of the notice. The request shall be forwarded to: Illinois Department of Natural Resources, Office of Mines and Minerals, 524 S. Second St., Springfield, IL 62701-1787. If a hearing is requested, the hearing shall be conducted in accordance with 62 Ill. Adm. Code 300.245(b) and

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shall be held in Springfield. The Department shall give at least five (5) days notice of the date, time and location of the hearing to the blaster, his or her employer and any person who filed a report which led to the notice that was issued.

- 4) The filing of a request for hearing shall not act as a stay of the remedial actions required as part of the notice of infraction.

2) License Suspension or Revocation

- 1) The Department shall, upon a finding of a willful commission of an infraction by the blaster, issue to the blaster a written notice to show cause why his license should not be suspended or revoked for a specified period (not to exceed the term of the license).

- 2) The blaster shall have twenty-one (21) days from the receipt date of the notice to file a written request for a hearing. If the blaster files an answer to the show cause order and requests a hearing, a public hearing shall be provided and conducted in accordance with 62 Ill. Adm. Code 300.248. The Department shall give thirty (30) days written notice of the date, time and location of the hearing to the blaster, the blaster's employer and any person who filed a report which led to the order that was issued.

- 3) If the Department determines that the infraction resulting from the willful act on the part of the blaster creates an imminent danger to the health or safety of the public or imminent damage to public or private property, the Department shall immediately issue a temporary suspension of the blaster's license. The temporary suspension shall be in writing, and shall, with reasonable specificity, set forth the nature of the infraction and the imminent danger or damage incurred or about to be incurred. Such suspension shall be subject to a hearing to be provided not less than fifteen (15) days after the blaster's receipt of the temporary suspension. The hearing shall determine whether the suspension shall be continued or terminated or whether the license shall be revoked. Temporary suspension issued under the authority of this subsection shall not exceed fifteen (15) days. The hearing shall be conducted in accordance with 62 Ill. Adm. Code 300.248 and shall be held at the Department's Springfield office.

- 4) Upon written notice of revocation, including the findings upon which the notice is based, the blaster shall without delay surrender the license to the Department.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.245 Notices of Violation

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- a) An authorized representative of the Department shall issue a notice of violation if, on the basis of an inspection, he or she finds a violation (of this Part) for which a cessation order may not be issued under Section 300.246.

- b) A notice of violation issued under this Section shall be in writing, signed by the authorized representative who issued it, and shall set forth with reasonable specificity:

- 1) The nature of the violation;
- 2) Statute sections or regulations violated;
- 3) The remedial action required, which may include interim steps;
- 4) A reasonable time for abatement, which may include time for accomplishment of interim steps; and
- 5) A reasonable description of the portion of the blasting area to which it applies.

- c) A notice of violation shall be served upon the operator or an agent of the operator, if either is present on site. If the operator, or operator's agent, is not present, the notice of violation shall be mailed to the operator's address. The notice of violation shall be considered served when personally delivered or mailed.

- d) The operator issued the notice of violation may provide the Department a written response to the violation(s) within fourteen (14) days after the delivery or mailing of the notice. Such written response may include a proposed alternative to the Department's specified remedial action needed to abate the violation(s). The Department shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty. The written response shall be submitted to the Illinois Department of Natural Resources, Office of Mines and Minerals, 524 S. Second Street, Springfield, Illinois 62701-1787.

- e) The notice of violation shall provide that the operator named in the notice has the right to request a hearing to contest the facts of the violation(s) alleged by the Department, as well as the civil penalty assessed, after the issuance of the Office of Mines and Minerals Decision, pursuant to Sections 300.247 and 300.248.

- f) A notice of violation issued under this Section shall continue in effect until modified, vacated or terminated by the Department. Termination shall not affect the right of the Department to assess civil penalties for those violations in accordance with Section 240.247(d). A notice of violation can only be terminated when all abatement action required by the Department has been completed.

- 3) A notice of violation may be modified, vacated or terminated in writing by either:

- 1) An authorized representative of the Department; or
- 2) The issuance of an Office of Mines and Minerals Decision pursuant to Section 300.247.

(Source: Added at 20 Ill. Reg. _____, effective _____)

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Section 300.246 Cessation Orders**a) Standards for Issuance**

- 1) An authorized representative of the Department shall immediately order a cessation of blasting operations if he or she finds, on the basis of any State inspection, any condition or practice, or any violation of Section 6.5 of the Act, which may cause injury to person(s) or public or private property outside the blasting zone.
- 2) If the cessation order will not completely abate the imminent danger or harm in the most expeditious manner possible, the authorized representative of the Department shall impose affirmative obligations on the operator to whom it is issued to abate the condition, practice or violation. The order shall specify the time by which abatement shall be accomplished and may require, among other things, the use of existing or additional personnel and equipment.

b) A cessation order shall be in writing, signed by the authorized representative who issued it, and shall set forth with reasonable specificity:

- 1) The nature of the condition, practice or violation;
- 2) The remedial action or affirmative obligation required, if any, including interim steps, if appropriate;
- 3) The time established for abatement, if appropriate, including the time for meeting any interim steps; and
- 4) A reasonable description of the portion of the blasting zone to which it applies.

c) A cessation order shall be served upon the operator or an agent of the operator, if either is present on site. If the operator, or operator's agent, is not present, the cessation order shall be sent to the operator's address by certified mail, return receipt requested. The cessation order shall be considered served when personally delivered or mailed.**d) Mining operations and other activities intended to protect public health and safety and the environment may continue during the period of any cessation order unless otherwise provided in such order.****e) The operator issued the cessation order may provide the Department a written response to the violation(s) cited on or before fourteen (14) days after the delivery or mailing of the order. Such written response may include a proposed alternative to the Department's specified remedial action needed to abate the violation. The Department shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty. The written response shall be submitted to the Illinois Department of Natural Resources, Office of Mines and Minerals, 524 S. Second Street, Springfield, Illinois 62701-1787.****f) The cessation order shall provide that the person or operator named in the order has the right to request a hearing to contest the fact of**

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the violation alleged by the Department, as well as the civil penalty assessed, after the issuance of the Office of Mines and Minerals Decision, pursuant to Sections 300.247 and 300.248. In addition, the cessation order shall provide that the operator named in the order has the right to request a hearing for temporary relief from the cessation of blasting operations, in accordance with Section 300.249.

g) A cessation order issued under this Section shall continue in effect until modified, vacated or terminated by the Department. Termination shall not affect the right of the Department to assess civil penalties for those violations in accordance with Section 240.247(d). A cessation order can only be terminated when all abatement action required by the Department has been completed.**h) A cessation order may be modified, vacated or terminated in writing by either:**

- 1) An authorized representative of the Department; or
- 2) The issuance of an Office of Mines and Minerals Decision pursuant to Section 300.247.

i) The filing of a request for a hearing under Section 300.248 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief in accordance with Section 300.249.

(Source: Added at 20 Ill. Reg. _____, effective _____.)

Section 300.247 Office of Mines and Minerals Decision**a) Upon receipt of a notice of violation or cessation order, the Director of the Office of Mines and Minerals, or his designee, shall conduct an investigation and either affirm, vacate or modify the notice of violation or cessation order.****b) Modification of the Notice of Violation or Cessation Order may include:**

- 1) Any different or additional remedial actions necessary to abate the violation and the time within which the violation must be abated;
- 2) The assessment of civil penalties for each and every act of violation;
- 3) Probationary or permanent modification or conditions on the blasting site which may include special monitoring or reporting requirements;
- 4) The extension of time set for abatement or for accomplishment of an interim step may be extended due to the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the operator, if the failure to meet the time previously set was not caused by lack of diligence on the part of the operator to whom it was issued; and

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- 5) Termination (when all abatement action required by the Department has been completed).
- 6) Inability to Comply:

1) No cessation order or notice of violation issued under this Part may be vacated because of an inability to comply.

2) Unless caused by lack of diligence, inability to comply may be considered in mitigation of the amount of civil penalty under subsection (d) of this Section.

3) Civil Penalty Assessment Process

The Department shall assess a penalty for each notice of violation or cessation order. In determining the amount of civil penalties to assess, the Director of the Office of Mines and Minerals, or his designee, shall consider:

1) The operator's history of previous violations. For purposes of determining the history of violations, the Department shall consider only those violations occurring at the same mining operation within a three-year period.

A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department under Section 300.248 or if the time to request such review has not expired, and thereafter it shall be counted.

B) No violation for which the notice or order has been vacated shall be counted.

C) History of Violations

i) First violation of the rule, assess \$100.00.

ii) Second violation of the same rule within a three year period from the date of issuance of the first violation, assess \$250.00.

iii) Third and subsequent violations of the same rule within a three year period from the date of issuance of the first violation, assess \$500.00.

2) The seriousness of the violation.

A) If the violation did not cause injury to persons or cause damage to public or private property, assess \$100.00. If the violation caused injury to persons or caused damage to public or private property, add \$100.00.

B) If the violation caused injury to persons or damage to public or private property, add \$500.00.

3) The degree of culpability of the operator.

A) If the violation occurred due to the operator's failure to use reasonable care, add \$250.00.

B) If the violation occurred as a result of the operator's reckless or deliberate conduct, add \$750.00.

4) Administrative Requirements: In the case of a violation of an

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administrative requirement, such as a requirement to keep records, the Department shall assess a maximum civil penalty of \$100.00.

e) The Office of Mines and Minerals Decision, including the civil penalty assessment, shall be served on the operator within sixty (60) days after the issuance of the notice of violation or cessation order. The Office of Mines and Minerals Decision shall provide that the operator has the right to request a hearing to contest the facts of the violation and/or the civil penalty assessed in accordance with Section 300.248(a). The Office of Mines and Minerals Decision affirming vacating, terminating or modifying the notice of violation or cessation order shall be served by certified mail, return receipt requested, and shall be considered served upon mailing.

f) If the Office of Mines and Minerals Decision includes the assessment of a civil penalty, and the operator named in such decision does not request a hearing in accordance with Section 300.248(a) to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the Office of Mines and Minerals Decision.

g) An Office of Mines and Minerals Decision not appealed in accordance with Section 300.249(a) within 30 days after service shall become a final administrative decision of the Department. The operator's failure to request a hearing in accordance with Section 300.249(a) shall constitute a waiver of all legal rights to contest the Office of Mines and Minerals Decision or the cessation order, including the amount of any civil penalty assessed. The filing of a request for hearing under Section 300.248(a) shall not operate as a stay of the Office of Mines and Minerals Decision.

h) All civil penalties assessed and paid to the Department shall be deposited in the Aggregate Operations Regulatory Fund (30 ILCS 105.5.4-11).

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 300.248 Hearings

a) An operator shall have 30 days from the date of service of the Office of Mines and Minerals Decision to request a hearing. All requests for hearing shall be mailed or delivered to the Illinois Department of Natural Resources, Office of Mines and Minerals, 524 S. Second Street, Springfield, Illinois 62761-1902.

b) Upon receipt of a request for hearing submitted in accordance with subsection (a), the Department shall provide an opportunity for a formal hearing upon not less than 5 days written notice mailed to the operator submitting the hearing request. The hearing shall be conducted by a hearing officer designated by the Director and shall be conducted in accordance with the following address:

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- 1) A pre-hearing conference shall be scheduled within 30 days after the request for hearing:
 - A) to define the factual and legal issues to be litigated at the administrative hearing;
 - B) to determine the timing and scope of discovery available to the parties;
 - C) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each such witness;
 - D) to schedule a date for the administrative hearing; and
 - E) to arrive at an equitable settlement of the hearing request, if possible.
- F) Pre-hearing conferences under this Section may be conducted via telephone conference if such procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted at a place designated by the hearing officer.
- G) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Department's hearing officer shall grant or deny such motions within fifteen (15) days after service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the Office of Mines and Minerals Decision or cessation order being contested.
- 2) If a settlement agreement is entered into at any stage of the hearing process, the operator to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the hearing officer and shall constitute the Department's final administrative decision as to the Office of Mines and Minerals Decision or cessation order being contested.
- 3) All hearings under this Section shall be conducted in accordance with the contested case provisions set forth in Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art 10]. All hearings under this Section shall be conducted in Springfield, Illinois.
- 4) At the hearing the Department shall have the burden of proving the facts of the violation alleged in the notice of violation or cessation order at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of

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- proof shall be a preponderance of the evidence. The operator shall have the right to challenge the hearing officer if the operator believes the hearing officer is prejudiced against him or has a conflict of interest. If the hearing officer disqualifies himself, the Director of the Department of Natural Resources shall designate a new hearing officer. The hearing officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.
- c) The Director of the Department of Natural Resources shall review the administrative record in a contested case, in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director of the Department of Natural Resources shall then issue the final administrative decision affirming, vacating or modifying the hearing officer's decision.
 - d) Judicial Review. Following service of the Department's final administrative decision, the operator may request judicial review of that decision in accordance with the Administrative Review Law [735 ILCS 5 Art. 1.1].
- (Source: Added at 20 Ill. Reg. _____, effective _____)
- Section 300.249 Temporary Relief**
- a) Pending the holding of a hearing or entry of a final administrative decision relating to a cessation order issued under Section 300.246, the operator affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief. The operator shall file the request for temporary relief within 14 days after service of the cessation order.
 - b) The Department shall commence a hearing within 5 days after receipt of a timely request for temporary relief and may grant such relief, under such conditions as it may prescribe, if the operator requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to him and such relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property.
 - c) All hearings under this Section shall be conducted by a hearing officer designated by the Director in accordance with the contested case provisions set forth in Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art 10]. All hearings under this Section shall be conducted in Springfield, Illinois.
 - d) The Department's hearing officer shall issue a final administrative decision granting or denying temporary relief from the cessation order

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- within 7 days after the close of the administrative record.
- e) Judicial Review. Following service of the Department's final administrative decision granting or denying temporary relief from the cessation order, the operator may request judicial review of that decision in accordance with the Administrative Review Law [735 ILCS 5/Art. III].

Section 300.250 Subpoenas

- a) Any party to proceedings brought under Sections 300.248 and 300.249 of this Part may apply for subpoenas to compel the attendance of witnesses and the production of relevant documents.
- b) The applicant shall submit the subpoena request to the Department's hearing officer. The subpoena request shall specifically identify the witness or relevant documents sought to be produced.
- c) The hearing officer shall issue subpoenas within 7 calendar days from the receipt of a request made in accordance with subsection (b) above and deliver the subpoena to the applicant who shall serve all subpoenas issued by certified mail, return receipt requested, at least 7 days before the date set for the hearing. Any witness shall respond to any lawful subpoena of which he has actual knowledge, if payment of the witness fee and mileage applicable in the State circuit courts has been tendered. Service of a subpoena may be proved prima facie by a return receipt signed by the witness or his authorized agent and an affidavit showing that the mailing was prepaid and was addressed to the witness, restricted delivery, with a check or money order for the fee and mileage enclosed.
- d) Any party served with a subpoena under this Section may file with the hearing officer, and serve on all parties, a motion for an order quashing the subpoena, in whole or in part. All motions to quash filed under this subsection shall set forth a factual and/or legal basis for granting such relief.
- e) The hearing officer shall issue, and serve on all parties, a decision granting or denying the motion to quash within 7 calendar days from the receipt of the motion.

(Source: Added at 20 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations
- 2) Code Citation: 62 Ill. Adm. Code 1800
- 3) Section Number: _____ Proposed Action:
- | | |
|---------|-------------|
| 1800.4 | Amend |
| 1800.5 | Amend |
| 1800.11 | Amend |
| 1800.12 | Amend |
| 1800.23 | New Section |
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A complete description of the subjects and issues involved: Section 6.01 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/6.01] was recently amended to allow the Department to accept an applicant's bond, without separate surety, when the applicant has a history of solvency and designates a suitable agent for service of process (self-bonding). The proposed amendments to Sections 1800.4, 1800.5, 1800.11, 1800.12, and proposed new Section 1800.23, implement the statutory self-bonding provision.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel
 Illinois Department of Natural Resources
 524 South Second Street
 Springfield, IL 62701-1787
 (217) 785-0356

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11

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inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1800

BONDING AND INSURANCE REQUIREMENTS FOR
SURFACE COAL MINING AND RECLAMATION OPERATIONS

Section	Scope and Purpose
1800.1	Objective (Repealed)
1800.2	Department Responsibilities
1800.4	Definitions
1800.5	Requirement to File a Bond
1800.11	Form of the Performance Bond
1800.12	Period of Liability
1800.13	Determination of Bond Amount
1800.14	Adjustment of Amount
1800.15	General Terms and Conditions of Bond
1800.16	Bonding Requirements for Underground Coal Mines and Long-Term
1800.17	Coal-Related Surface Facilities and Structures
1800.20	Surety Bonds
1800.21	Collateral Bonds
1800.23	Self-Bonding
1800.30	Replacement of Bonds
1800.40	Requirement to Release Performance Bonds
1800.50	Forfeiture of Bonds
1800.60	Terms and Conditions for Liability Insurance

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9354; amended at 11 Ill. Reg. 7985, effective July 1, 1987; amended at 14 Ill. Reg. 11785, effective January 1, 1991; amended at 17 Ill. Reg. 10916, effective July 1, 1993; amended at 20 Ill. Reg. 1939, effective January 19, 1996; amended at 20 Ill. Reg. _____, effective _____.

Section 1800.4 Department Responsibilities

- a) The Illinois Department of Natural Resources, Office of Mines and Minerals (Department) shall prescribe and furnish forms for filing performance bonds.
- b) The Department shall determine the amount of the bond for each area to be bonded, in accordance with Section 1800.14. The Department shall also adjust the amount as acreage in the permit area is revised, or when other relevant conditions change, according to the requirements of Section 1800.15.

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- c) The Department may accept a self-bond if the permittee meets the requirements of Section 1800.23.
- d) The Department shall release liability under a bond or bonds in accordance with Section 1800.40.
- e) If the conditions specified in Section 1800.50 occur, the Department shall take appropriate action to cause all or part of a bond to be forfeited in accordance with procedures of that Section.
- f) The Department shall require in the permit that adequate bond coverage be in effect at all times. Except as provided in Section 1800.16(e)(2), operating without a bond is a violation of a condition upon which the permit is issued.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1800.5 Definitions

- a) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the permittee as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in Illinois.
- b) Collateral bond means an indemnity agreement in a sum certain executed by the permittee as principal which is supported by the deposit with the Department of one or more of the following:
- 1) A cash account, which shall be the deposit of cash in one or more federally-insured or equivalently protected accounts, payable only to the Department upon demand, or the deposit of cash directly with the Department;
 - 2) Negotiable bonds of the United States, a State, or a municipality, endorsed to the order of, and placed in the possession of, the Department;
 - 3) Negotiable certificates of deposit, made payable or assigned to the Department and placed in its possession or held by a federally-insured bank;
 - 4) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, in another state of the United States, or in the United States by national charter, payable only to the Department upon presentation provided that if the bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois that is authorized to accept, negotiate and pay the letter upon presentment in Illinois; or
 - 5) Other investment-grade rated securities having a rating of AAA, AA, or A or an equivalent rating issued by a nationally recognized securities rating service, endorsed to the order of, and placed in the possession of the Department.
- c) Self-bonding means an indemnity agreement in a sum certain executed by the applicant or by the applicant and any corporate guarantor and made

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payable to the Department, with or without separate surety.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1800.11 Requirement to File a Bond

- a) After a permit application under 62 Ill. Adm. Code 1772 through 1785 has been approved, but before a permit is issued, the applicant shall file with the Department, on a form provided by the Department a bond or bonds for performance made payable to the Department and conditioned upon the faithful performance of all the requirements of the State Act, 62 Ill. Adm. Code 1700 -- through 1850, the permit and the reclamation plan. Failure to file a performance bond or other equivalent guarantee in accordance with this Section within one (1) year after the issuance of the Department's written findings approving a permit application under 62 Ill. Adm. Code 1773.15(c) shall result in the expiration of the Department's written findings approving the permit application.
- b) Bond coverage.
- 1) The bonds or bonds shall cover the entire permit area, or an identified increment of land within the permit area upon which the operator will initiate and conduct surface coal mining operations during the initial term of the permit.
 - 2) As surface coal mining and reclamation operations on succeeding increments are initiated and conducted within the permit area, the permittee shall file with the Department an additional bond or bonds to cover such increments in accordance with this Section.
 - 3) The operator shall identify the initial and successive areas or increments for bonding on the permit application map submitted for approval as provided in the application (under 62 Ill. Adm. Code 1780 and 1784), and shall specify the bond amount to be provided for each area or increment.
 - 4) Independent increments shall be of sufficient size and configuration to provide for efficient reclamation operations should reclamation by the Department become necessary pursuant to Section 1800.50.
 - c) An operator shall not disturb any surface areas, succeeding increments or extend any underground shafts, tunnels, or operations prior to acceptance by the Department of the required performance bond.
 - d) The applicant shall file, with the approval of the Department, a bond or bonds under one of the following schemes to cover the bond amounts for the permit area as determined in accordance with Section 1800.14:
 - 1) A performance bond or bonds for the entire permit area;
 - 2) A cumulative bond schedule and the performance bond required for the full reclamation of the initial area to be disturbed; or
 - 3) An incremental bond schedule and the performance bond required

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and rights to patents or royalties.
The Department may accept a self-bond from an applicant for a permit if all of the following conditions are met by the applicant or its parent corporation guarantor:

- 1) The applicant designates a suitable agent to receive service of process in the State of Illinois.
- 2) The applicant has been in continuous operation as a business entity for a period of not less than five years. Continuous operation shall mean that business was conducted over a period of five years immediately preceding the time of application.
 - A) The Department may allow a joint venture or syndicate with less than five years of continuous operation to qualify under subsection (b)(2) above, if each member of the joint venture or syndicate has been in continuous operation for at least five years immediately preceding the time of application.
 - B) When calculating the period of continuous operation, the Department may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed surface coal mining and reclamation operations.
- 3) The applicant submits financial information in sufficient detail to show that the applicant meets one of the following criteria:
 - A) The applicant has a current rating for its most recent bond issuance of "Aaa" or higher as issued by either Moody's Investor Service or Standard and Poor's Corporation.
 - B) The applicant has a tangible net worth of at least \$10 million, a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater; or
 - C) The applicant's fixed assets in the United States total at least \$20 million, and the applicant has a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater.
- 4) The applicant submits:
 - A) Financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;
 - B) Unaudited financial statements for completed quarters in the current fiscal year; and
 - C) Additional unaudited information as requested by the Department.
- 5) Written guarantee.

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for the first increment in the schedule.
e) The Department shall administer self-bonding for eligible permittees consistent with all applicable provisions of Section 1800.1 through 1800.50.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1800.12 Form of the Performance Bond

The Department shall prescribe the form of the performance bond. The Department shall allow for:

- a) A surety bond;
- b) A collateral bond; or
- c) A self-bond; or
- d) A combination of any of these bonding methods.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 1800.23 Self-Bonding

a) For purposes of this Section only, the following terms have the following meanings:

Current assets means cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one year or within the normal operating cycle of the business.

Current liabilities means obligations which are reasonably expected to be paid or liquidated within one year or within the normal operating cycle of the business.

Fixed assets means plants and equipment, but does not include land or coal in place.

Liabilities means legally enforceable obligations to transfer assets or provide services to other entities in the future as a result of past transactions.

Net worth means total assets minus total liabilities and is equivalent to owners' equity.

Parent corporation means a corporation which owns or controls the applicant.

Tangible net worth means net worth minus intangibles such as goodwill.

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1) The Department may accept a written guarantee for an applicant's self-bond from a parent corporation guarantor, if the guarantor meets the conditions of subsections (b)(1) through (4), above, as if it were the applicant. Such a written guarantee shall be referred to as a "corporate guarantee." The terms of the corporate guarantee shall provide for the following:

A) If the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide funds to the Department sufficient to complete the reclamation plan, but not to exceed the bond amount.

B) The corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the Department at least 90 days in advance of the cancellation date, and the Department accepts the cancellation.

C) The cancellation may be accepted by the Department if the applicant obtains suitable replacement bond before the cancellation date or if the lands for which the self-bond, or portion thereof, was accepted have not been disturbed.

2) The Department may accept a written guarantee for an applicant's self-bond from any corporate guarantor, whenever the applicant meets the conditions of subsections (b)(1), (2) and (4) above, and the guarantor meets the conditions of subsections (b)(1) through (4) above. Such a written guarantee shall be referred to as a "non-parent corporate guarantee." The terms of this guarantee shall provide for compliance with the conditions of subsections (C)(1)(A) through (C) above. The Department may require the applicant to submit any information specified in subsection (b)(3) above in order to determine the financial capabilities of the applicant.

d) In order for the Department to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for surface coal mining and reclamation operations shall not exceed 25 percent of the applicant's tangible net worth in the United States. In order for the Department to accept a corporate guarantee, the total amount of the parent corporation guarantor's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations shall not exceed 25 percent of the guarantor's tangible net worth in the United States. In order for the Department to accept a non-parent corporate guarantee, the total amount of the non-parent corporate guarantor's present and proposed self-bonds and guaranteed self-bonds shall not exceed 25 percent of the guarantor's tangible net worth in the United States.

e) If the Department accepts an applicant's self-bond, an indemnity agreement shall be submitted subject to the following requirements:

1) The indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the parent

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2) corporation guarantor, and shall bind each jointly and severally. Corporations applying for a self-bond, and parent and non-parent corporations guaranteeing an applicant's self-bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations. A copy of such authorization shall be provided to the Department along with an affidavit certifying that such an agreement is valid under all applicable federal and state laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement.

3) If the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant.

4) Pursuant to Section 1800.50, the applicant, parent or non-parent corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the Department an amount necessary to complete the approved reclamation plan, not to exceed the bond amount. Under Illinois law, the indemnity agreement when under forfeiture shall operate as a judgment against those parties liable under the indemnity agreement.

f) The Department shall require self-bonded applicants and parent and non-parent corporate guarantors to submit an update of the information required under subsections (b)(3) and (4) above within 90 days after the close of each fiscal year following the issuance of the self-bond or corporate guarantee.

g) If at any time during the period when a self-bond is posted, the financial conditions of the applicant, parent or non-parent corporate guarantor change so that the criteria of subsections (b)(3) and (d) above are not satisfied, the permittee shall notify the Department immediately and shall within 90 days post an alternate form of bond in the same amount as the self-bond. Should the permittee fail to post an adequate substitute bond, the provisions of Section 1800.16(e)(2) shall apply.

(Source: Added at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Designation of Restricted Waters in the State of Illinois

2) Code Citation: 17 Ill. Adm. Code 2030

3) Section Numbers: Proposed Action:
2030.30 Amendments

4) Statutory Authority: 625 ILCS 45/5-7 and 5-12

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to modify the existing "No Boat" area at North Point Marina. Navigation around the harbor entrance at North Point Marina has, in the last year, become extremely hazardous due to the presence of a large number of personal watercraft using the adjacent beach area. By prohibiting any watercraft from using this beach area, boating activity related to the shoreline would be shifted to the beachfront further away from the harbor entrance, thereby decreasing congestion.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis: This rule does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This is an unexpected occurrence the Department did not anticipate.

The full text of the Proposed Amendment begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER e: LAW ENFORCEMENT

PART 2030

DESIGNATION OF RESTRICTED WATERS IN THE STATE OF ILLINOIS

- Section
2030.10 General Regulations
2030.10 General Regulations (Repealed)
2030.15 Designation of Restricted Waters by the Department of Conservation
2030.20 Region I - Designated Restricted Boating Areas
2030.30 Region II - Designated Restricted Boating Areas
2030.40 Region III - Designated Restricted Boating Areas
2030.50 Region IV - Designated Restricted Boating Areas
2030.60 Region V - Designated Restricted Boating Areas (Repealed)
2030.70 Riverboat Gambling Casinos - Designated Restricted Boating Areas

AUTHORITY: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].

SOURCE: Adopted at 5 Ill. Reg. 8763, effective August 25, 1981; codified at 5 Ill. Reg. 10617; amended at 9 Ill. Reg. 4789, effective April 2, 1985; amended at 11 Ill. Reg. 9519, effective May 5, 1987; emergency amendment at 12 Ill. Reg. 8745, effective May 15, 1988, for a maximum of 150 days; emergency expired September 20, 1988; emergency amendment at 12 Ill. Reg. 12111, effective July 6, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 12 Ill. Reg. 16707, effective September 30, 1988; amended at 12 Ill. Reg. 20472, effective November 28, 1988; corrected at 13 Ill. Reg. 967; emergency amendment at 13 Ill. Reg. 2878, effective February 21, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 12814, effective July 21, 1989; amended at 16 Ill. Reg. 8483, effective May 26, 1992; amended at 19 Ill. Reg. 7549, effective May 26, 1995; emergency amendment at 19 Ill. Reg. 11967, effective August 3, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 750, effective December 29, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 2030.30 Region II - Designated Restricted Boating Areas

- a) The following portions of the Calumet and Little Calumet Rivers are designated as Slow, No Wake areas:
- 1) An area from the O'Brien Locks to the Michigan Central Railroad Bridge (approximately mile 326.5 to 325.3).
 - 2) An area around the Pier 11 Marina and the Lake Calumet Boat and Gun Club (approximately mile 323.2 to 323.1).
 - 3) An area around the Maryland Manor Boat Club, Skipper's Marina, and Rentner Marina (approximately mile 323.0 to 322.5).
 - 4) An area around Triplex Marina (approximately mile 319.9 to

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313.8).

- b) The following portions of the Des Plaines River are designated as Slow, No Wake areas:
- 1) An area around the Bay Hill Marina, Wilmington, Illinois (approximately mile 273.7), extending 150 feet out into the river and 300 feet both upstream and downstream from the center of the Marina.
 - 2) An area around the Three Rivers Yacht Club, Wilmington, Illinois (approximately mile 273.7), extending 150 feet from the harbor entrance.
- c) The following portion of the Fox River is designated as a Slow, No Wake area:
- An area within 150 feet upstream and downstream of the I-90 bridge.
- d) The following portions of Lake Michigan are designated as No Boat areas:
- 1) An area at North Point Marina, located off the northern breakwater, running the length of the beach ~~200-yards~~ parallel to the shoreline and 100 yards out into the lake.
 - 2) An area at Illinois Beach State Park, located between the park office and the #3 bathhouse, running parallel to the shoreline and 70 yards out into the lake.
- e) It shall be unlawful to operate any watercraft with a motor larger than ~~ten~~ ¹⁰ horsepower on the waters of Griswold Lake in McHenry County.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Number: Proposed Action:
 114.351 Amendment
 114.352 Amendment
 114.353 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) Complete Description of the Subjects and Issues Involved: The Department is increasing the Transitional Assistance Payment Level from \$60 per month to \$100 per month, effective in February, 1996. During the budget process for Fiscal Year 1996, the General Assembly made several changes to the Interim Assistance and Transitional Assistance programs. The Interim Assistance program was eliminated. Several categories of the Transitional Assistance program were eliminated. A new category of Transitional Assistance was created to encompass some, though by no means all, of the clients who are or would have been on Interim Assistance. Finally, the legislature made it clear that only \$20,000,000 was being appropriated for Transitional Assistance cash grants and the Department would be expected not to exceed that amount, even if cash grants had to be cut in the future.

The Department attempted to predict the eventual average caseload size taking into account all the changes that were made. It has become clear that the actual caseload size has fallen below those projections. Therefore, there is money available within the \$20,000,000 appropriation to provide a grant increase to Transitional Assistance clients. Based on actual caseload size for July-January, a more accurate estimate of caseload for the remainder of FY'96 and for FY'97 can be made. Based on this, the payment level can be increased to \$100 effective February 1996 and can remain at that level for FY'97 and stay within the \$20,000,000 appropriation.

Regular roll payments for March will reflect the increase. Supplemental payments of \$40 will be made to those clients on the regular rolls for February 1996.

- 6) Will these proposed amendments replace emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No

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- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna
 Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Ave. E., 3rd Floor
 Springfield, Illinois 62762
 Phone: (217) 524-3215

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 4237.

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1) Heading of the Part: Regulations under the Business Opportunity Sales Law of 1995.

2) Code Citation: 14 Ill. Adm. Code 135

3) Section Numbers: Proposed Action:

135.50	New
135.100	New
135.300	New
135.301	New
135.302	New
135.303	New
135.350	New
135.351	New
135.352	New
135.353	New
135.356	New
135.500	New
135.501	New
135.700	New
135.800	New
135.801	New
135.950	New
135.1300	New
135.1400	New
135.1401	New
135.2100	New
135.2101	New
135.2110	New
135.2120	New
135.2130	New
135.2140	New
135.2141	New
135.2143	New
135.2144	New
135.2145	New
135.2190	New

4) Statutory Authority: 815 ILCS 602

5) A Complete Description of the Subjects and Issues Involved:

Section 135.050 - Added to define terms in the Act and Rules.

Section 135.100 - Added to define exemption by Order.

Section 135.300 - Added to lay out procedures for registration.

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Section 135.301 - Added to lay out procedures for withdrawing pending application or terminating registration.

Section 135.302 - Added to lay out procedures for abandoning incomplete applications.

Section 135.303 - Added to lay out procedures for renewal.

Section 135.350 - Added to define acceptable disclosure statement.

Section 135.351 - Added to define additional disclosure from sellers - guarantors.

Section 135.352 - Added to define required amendments to disclosure filing.

Section 135.353 - Added to define material change to disclosure document.

Section 135.356 - Added to define additional fees.

Section 135.500 - Added to define minimum net worth requirement of seller.

Section 135.501 - Added to define bond requirements.

Section 135.700 - Added to define procedures for Hearings.

Section 135.800 - Added to define procedure for Service of Process.

Section 135.801 - Added to define scope of the law.

Section 135.950 - Added to define fraudulent practices.

Section 135.1300 - Added to define procedure for request for non-binding statements.

Section 135.1400 - Added to define inspection of Business Opportunity records.

Section 135.1401 - Added to define non-public distribution of information.

Section 135.2100 - Added to define business hours of the Securities Department.

Section 135.2101 - Added to define computation of time.

Section 135.2110 - Added to define payment of fees.

Section 135.2120 - Added to define place of filing.

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- Section 135.2130 - Added to define date of filing.
- Section 135.2140 - Added to define requirements as to proper form.
- Section 135.2141 - Added to define additional information.
- Section 135.2143 - Added to define information unknown or not reasonably available.
- Section 135.2144 - Added to define requirements as to paper, printing and language.
- Section 135.2145 - Added to define number of copies --- signatures.
- Section 135.2190 - Added to define provisions for granting variances from Rules.

6) Will this proposed rule replace an emergency rule currently in effect?
 Yes - 135.50, 135.100, 135.300, 135.350, 135.351, 135.352, 135.353, 135.500, 135.501, 135.700, 135.800, 135.801, 135.950, 135.1300, 135.1400, 135.1401, 135.2100, 135.2101, 135.2110, 135.2120, 135.2130, 135.2140, 135.2141, 135.2143, 135.2144, 135.2145, 135.2190.

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: To enact the provisions of the Business Opportunity Sales Law of 1995.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Michael A. Chizmar
 Illinois Securities Department
 Lincoln Tower, Suite 200
 520 South Second Street
 Springfield, IL 62701
 217-524-8040

All comments must be in writing.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Some of the applicant's may be small

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businesses which offer business brokering to the public.

B) Reporting, bookkeeping or other procedures required for compliance:
 Would have to file for exemption or would have to register; if guarantee offered, audited financial statements required; if minimum net worth is below \$25,000 need a surety bond; disclosure statement required by Statute; required to maintain files mandated by Statute.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: To enact the Business Opportunity Sales Law of 1995. The Act creates regulation of Business Opportunities in the State of Illinois.

The full text of the Proposed Rules begins on the next page:

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 135
REGULATIONS UNDER THE BUSINESS OPPORTUNITY SALES LAW OF 1995

SUBPART A: DEFINITIONS

Section
135.50 Definitions of Terms as Used in the Act and the Rules

SUBPART B: EXEMPTIONS

Section
135.100 Exemption by Order

SUBPART C: REGISTRATION OF BUSINESS OPPORTUNITIES

Section
135.300 Complete Filing
135.301 Procedures for Withdrawal of Pending Application or Termination of Registration of a Business Opportunity
135.302 Procedure with Respect to Abandoned Incomplete Applications for Registration of a Business Opportunity
135.303 Procedures for Renewal of Registration of a Business Opportunity
Under Section 5-30(e) of the Act
135.350 Disclosure Document
135.351 Additional Required Disclosure from Seller-Guarantors
135.352 Required Amendments to Disclosure Filing
135.353 Material Change
135.356 Additional Fees
135.500 Minimum Net Worth Requirement
135.501 Bond Requirements

SUBPART D: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section
135.700 Hearings

SUBPART E: SERVICE OF PROCESS

Section
135.800 Service of Process upon the Secretary of State
135.801 Scope of the Law

SUBPART F: VIOLATIONS

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Section
135.950 Fraudulent Practices
SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section
135.1300 Request for Non-Binding Statements

SUBPART H: PUBLIC INFORMATION

Section
135.1400 Inspection of Business Opportunity Records
135.1401 Non-Public Distribution of Information

SUBPART I: RULES OF GENERAL APPLICATION

Section
135.2100 Business Hours of the Securities Department
135.2101 Computation of Time
135.2110 Payment of Fees
135.2120 Place of Filing
135.2130 Date of Filing
135.2140 Requirements as to Proper Form
135.2141 Additional Information
135.2143 Information Unknown or Not Reasonably Available
135.2144 Requirements as to Paper, Printing, and Language
135.2145 Number of Copies--Signatures
135.2190 Provisions For Granting of Variance from Rules

AUTHORITY: Implementing and authorized by the Business Opportunity Sales Law of 1995 [815 ILCS 602].

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 584, effective January 1, 1996, for a maximum of 150 days; added at 20 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 135.50 Definitions of Terms as Used in the Act and the Rules

- a) As used in this Part, unless the context otherwise requires, the term:
- "Act" means the Business Opportunity Sales Law of 1995 [815 ILCS 602] and this Part.
- "Advertising" means any circular, prospectus, advertisement, or other material or any communication by radio, television, pictures or similar means used in connection with an offer or

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sale of any business opportunity.

"Affiliate" of, or a person "affiliated" with, a specified person means a person who, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"Applicant" means the person making application for registration.

"Consideration" as set forth in Section 5-35(a) of the Act includes, without limitation, fully refundable deposits and postdated checks.

"Date of filing" means the date that all of the required documents are received by the Securities Department and all the required fees are paid to the Secretary of State. A document shall not be deemed to be filed if any information required by the Act is omitted or the document is illegible.

"Director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Employee" does not include a director, trustee, or officer.

"Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 U.S.C. 227), and the Rules and Regulations thereunder as in effect on January 1, 1996.

"Hearing" means a proceeding conducted by the Securities Department in which the rights, privileges, immunities, duties or obligations of any person or party are required by law to be determined by the Secretary of State only after opportunity for a hearing.

"Initial payment" as set forth in Section 5-10(b) of the Act:

shall include any form of a payment which evidences financial obligation on the part of the purchaser, including, without limitation, a lump sum payment or a note evidencing installment debt;

shall be the payment, in whatever form, that is made at the time of purchase, inclusive of payment for, without limitation, services, supplies, sales material, samples and inventory (inclusive of shipping and handling costs); and

does not include any cash payment by any purchaser exceeding

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\$500 if the payment is made for the not-for-profit sale of demonstration equipment, material or samples, or the payment is made for product inventory sold to the purchaser at a bona fide wholesale price.

"Material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable person would consider it important.

"Officer" means the president; any vice president in charge of a principal business unit, division or function; the secretary; the treasurer; any principal financial officer, comptroller or principal accounting officer; any other officer performing a principal policy-making function and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Principal" means any officer, director, partner, member, trustee, or manager of such business broker who is responsible for the supervision and management of the daily business operations in this State of such business opportunity.

"Purchaser" means a person who enters into a contract or agreement for the acquisition of a business opportunity or a person to whom an offer to sell a business opportunity is directed.

"Rules" refers to all rules adopted by the Secretary of State pursuant to the Act.

"Secretary of State" as delineated in Section 5-5.50 means the Securities Department of the Office of the Secretary of State or the Securities Director or his or her designee, as the case may be.

"Section" refers to a Section of this Part unless a reference to the Act is specifically made.

- b) A Section in this Part which defines a term without express reference to the Act or to this Part or to a portion thereof or hereof defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

SUBPART B: EXEMPTIONS

Section 135.100 Exemption by Order

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a) Pursuant to Section 5-10(h) of the Act, the Secretary of State may by Order exempt the sale of business opportunities from the requirements of the Act. The Secretary of State will consider whether to issue such an Order upon receipt of the following submissions:

- 1) a cover letter describing the basis for the exemption by referencing to this Section and to Section 5-10(h) of the Act;
 - 2) a description and business history of the applicant, the amount and form of payment and any additional fees, costs, or charges;
 - 3) a description of the applicant's litigation history as stated in Section 5-35(b)(6)(A) and (7) of the Act;
 - 4) a description of any bankruptcy petition filed by or against the applicant, its officers, directors or predecessors within the last ten years;
 - 5) a copy of the contract or agreement of sale relating to the business opportunity which is sought to be subject to the order of exemption;
 - 6) copies of any promotional materials;
 - 7) a list of all sales and advertisements in Illinois for the past five years;
 - 8) a list of administrative agencies which have issued or denied exemptions, along with copies of the exemptions and any opinions relating thereto;
 - 9) a statement of the number of units sold, in the prior twelve month period, as business opportunities by the applicant in the United States and in Illinois;
 - 10) a statement of the number of business opportunities the applicant intends to offer for sale in Illinois in the following 12 month period;
 - 11) a copy of any prospectus or other offering circular used by the applicant in the offer or sale of the subject business opportunity; and
 - 12) a certification of facts.
- b) Exemption requests will be granted only when in the public interest. An exemption will be considered in the public interest under the following circumstances:
- 1) the applicant intends to sell no more than two business opportunities in Illinois in the ensuing twelve months;
 - 2) the litigation and bankruptcy history described in subsections (a)(3) and (4) of this Section is not materially adverse to the interest of the prospective business opportunity purchasers; and
 - 3) the applicant agrees to provide the business opportunity purchasers with disclosure as required by Section 5-35(b) of the Act or Section 135.350 of this Part.

SUBPART C: REGISTRATION OF BUSINESS OPPORTUNITIES

Section 135.300 Complete Filing

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A complete filing within the meaning of Section 5-30(d)(2) of the Act is a filing which includes:

- a) a completed and current application on IL BSOP Form 5-25 and payment to the Securities Department of all appropriate fees as specified in Section 135.2110 of this Part. The application shall be accompanied by the following:

- 1) a disclosure document with a current financial statement, without any deficiencies or omissions in disclosure. The applicant may utilize IL BSOP Form 5-35(b) and IL BSOP Form 5-35;
 - 2) a consent to service of process for the applicant on Illinois Form BO05, unless the applicant is a corporation organized or authorized to transact business under the laws of this State; and
 - 3) a surety bond in the amount of \$25,000, if required. The applicant may utilize IL BSOP Form 5-50.
- b) Upon the grant of registration of a business opportunity, the Securities Department shall issue to the business opportunity proof of registration as evidence of such registration.
 - c) The application and documents on file with the Securities Department with respect to the business opportunity shall be amended whenever a change occurs which renders the information contained therein not accurate in any material respect. Such amendment shall be filed with the Securities Department within ten business days after the occurrence of the change.

Section 135.301 Procedures for Withdrawal of Pending Application or Termination of Registration of a Business Opportunity

If a business opportunity elects to withdraw its pending application prior to registration in this State, or if a registered business opportunity wishes to terminate its registration in this State, it shall provide written notice to the Securities Department indicating such intent. Any fees paid shall not be returnable in any event.

Section 135.302 Procedure with Respect to Abandoned Incomplete Applications for Registration of a Business Opportunity

- a) When an incomplete application for registration of a business opportunity has been on file with the Secretary of State for a period of six months, the Secretary of State may, in his or her discretion, proceed in the following manner to determine whether the application for registration has been abandoned by the registrant.
- b) A notice will be sent to the registrant named in the application for registration, by certified mail, return receipt requested, addressed to the most recent address reflected in the application for registration. The notice will inform the registrant that the application for registration is incomplete and:

- 1) the deficiencies must be corrected and refilled; or
- 2) written intent to complete, within a specified period, must be

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filed to comply with the applicable requirements of the Act; or
 3) the application may be withdrawn within 30 days after the date of notice; or

4) an Order of Abandonment shall be entered by the Secretary of State.

c) Should the registrant fail to respond to such notice by filing the information or document necessary to correct the deficiencies or withdrawing the application for registration, the Secretary of State shall enter an order declaring the application for registration abandoned.

d) When such an order is entered by the Secretary of State:

1) the filing fee paid upon the filing of the application for registration will not be returned; and

2) the records of the Secretary of State will be marked to indicate that the application for registration was abandoned and the date of the order.

e) The applicant may request an administrative hearing in writing within 15 days after receipt of the Order of Abandonment. A request for hearing shall set forth the grounds upon which the applicant petitions for a hearing.

Section 135.303 Procedures for Renewal of Registration of a Business Opportunity Under Section 5-30(e) of the Act

a) If a registered business opportunity wishes to renew its registration, it shall file with the Securities Department a completed and current IL BSOP Form 5-25 together with the renewal application filing fee as specified in Section 135.2110 of this Part.

b) Any amendment(s) shall also be filed with the Securities Department within ten business days if any material changes occur in the information that was filed with the Securities Department when the business opportunity applied for registration.

c) Any application for renewal of registration of a business opportunity filed with or fees paid to the Securities Department within 9 business days or less prior to the date upon which the registration or renewal would expire shall pay an additional fee set forth in Section 135.2110 of this Part.

d) Upon receipt of the renewal fees the Securities Department shall issue the business broker proof of renewal as evidence of such registration.

Section 135.350 Disclosure Document

The Secretary of State deems the following disclosure formats to be in full compliance with the disclosure requirements of Section 5-35 of the Act. No format other than the following or the format described in Section 5-35(b) of the Act shall be utilized. The different permissible formats may not be intermingled.

a) The Uniform Franchise Offering Circular (UFOC) in accordance with the

Federal Trade Commission Regulation Rule, entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (16 CFR 436) as in effect on January 1, 1996 (no subsequent amendments or editions); or

b) The disclosure requirements of the Federal Trade Commission Regulation Rule, entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (16 CFR 436) as in effect on January 1, 1996 (no subsequent amendments or editions).

Section 135.351 Additional Required Disclosure from Seller-Guarantors

In addition to filing the information specified in Section 5-35(b) of the Act, sellers who guarantee the business opportunity shall be required to provide the following information as an addendum to the disclosure document including a description of the nature of the guarantee, including, without limitation, the source of funds and other obligations and contingent, off-balance sheet obligations, which, if realized, could impair the ability of the guarantor to perform.

Section 135.352 Required Amendments to Disclosure Filing

In addition to filing the most current disclosure document at the time of application for registration pursuant to Section 5-30 of the Act, or for an exemption by order pursuant to Section 135.100 of this Part, sellers shall be required to amend the filing with the following information:

a) the most recent annual report of financial condition shall be due no later than the first day of the fourth month following the date of the audited financials; and

b) material changes or amendments to the information provided in the disclosure document shall be reported to the Secretary of State no later than ten business days after the seller should reasonably have known of the occurrence of such change or amendment.

Section 135.353 Material Change

A change in the information contained in the disclosure document is material within the meaning of subsection (b) of this Section if there is a substantial likelihood that a reasonable prospective purchaser would consider it significant in making a decision to purchase or not purchase the business opportunity. Without limitation, changes that are material include:

a) any increase or decrease in the initial or continuing fees charged by the seller;

b) more than 15 percent in the number of requests for refund or rescission or other mode of termination or cancellation of business opportunities sold which were received by the seller in the most recent quarter since the effective date of the current disclosure document;

c) a change in the seller's management;

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- d) a change in the seller's or purchaser's obligations under the contract or agreement of sale or related agreements;
- e) a decrease in the seller's income or net worth; and
- f) additional litigation or a significant change in the status of litigation, including, without limitation:
- 1) the filing of an amended complaint alleging or involving violations of any business opportunity or franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or breach of contract;
 - 2) the entry of any injunctive or restrictive order relating to any business opportunity; or the entry of any injunction under any federal, state, Canadian or Mexican business opportunity, franchise, securities, anti-trust trade regulation or trade practice law; and
 - 3) the entry of a judgment that has or would have any significant financial impact on the seller. Such a judgment is considered to have a significant financial impact if it equals 15 percent or more of the current assets of the seller and its subsidiaries on a consolidated basis.

Section 135.356 Additional Fees

- a) The additional fee for the failure by a registered business opportunity to file or file timely any other post-registration document required under this Part shall be as set forth in Section 135.2110 of this Part.
- b) The additional fee for the second and subsequent failure by a registered business opportunity to file or file timely any other post-registration document required under this Part shall be as set forth in Section 135.2110 of this Part.
- c) The failure by a registered business opportunity to file the required document with the Securities Department and pay any additional fee or fees set forth in this Section within ten business days after written notice by the Securities Department shall constitute a fraudulent business practice under Section 15- 95(3) of the Act.

Section 135.500 Minimum Net Worth Requirement

- a) The minimum net worth of the seller shall at all times be at least equal to the seller's liabilities plus the aggregate of any contingent obligations represented by outstanding guarantees to purchasers of business opportunities, but not less than \$25,000.
- b) In lieu of the minimum net worth requirement, the seller may post a surety bond issued by a surety company authorized to do business in this State. The surety bond shall:
 - 1) be in an amount equivalent to the aggregate of the amount of outstanding guarantees on sales made in this State within the

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- meaning of Section 5-80 of the Act;
- 2) shall remain in effect for the duration of the guarantee(s) or representation(s) giving rise to the surety bond requirement; and
 - 3) shall be in favor of this State for the benefit of purchasers.
- c) Any sale made in this State within the meaning of Section 5-80 of the Act which makes use of representations of guarantee pursuant to Section 5-5.10(a)(4) of the Act when the seller knows or reasonably should know that the guarantee is not covered or is insufficiently covered in the aggregate with other guarantees of the seller, is a per se violation of Section 5-95(3) of the Act.

Section 135.501 Bond Requirements

- a) Report of sale subject to seller's guarantee. Sellers who or which make use of the representation provided in Section 5-5.10(a)(4) of the Act that the purchaser will derive income from the business which exceeds the price paid to the seller, and who or which post a surety bond in lieu of the net worth requirement, shall file reports of all sales in this State within ten business days after consummation of the sale.
- b) Consummation of sale, for the purpose of subsection (a) of this Section, shall include, without limitation:
 - 1) the execution of a contract of sale which binds the purchaser; or
 - 2) the payment of the purchase price by the agreed upon method of payment.

SUBPART D: PROCEDURES FOR ADMINISTRATIVE HEARINGS**Section 135.700 Hearings**

Any hearing required pursuant to the Act or by this Part shall be held pursuant to 14 Ill. Adm. Code 130, Subpart K: Procedures For Administrative Hearings.

SUBPART E: SERVICE OF PROCESS**Section 135.800 Service of Process upon the Secretary of State**

- a) Any process, notice or demand to be served upon the Secretary of State under the Act shall be made by delivering personally to the Securities Director, or any employee of the Securities Department designated by the Securities Director to accept such service on behalf of the Secretary of State, or by sending by registered mail or certified mail, return receipt requested, a copy of the process, notice or demand to the Securities Department. Procedures for service are specified in the Act in the following Sections:
 - 1) Service upon any person who has filed a consent to service of process upon the Secretary of State under the Act, Section 5-80(e) of the Act;

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- 2) Service upon any person who, by virtue of having offered, sold or delivered a business opportunity in this State which is neither registered nor covered by an exemption from registration, shall have appointed the Secretary of State as agent for service of process, Section 5-80(e) of the Act; and
- 3) Service of a copy of a complaint in a private civil action.
- b) Service of any process, notice or demand under this Section shall be made with the Springfield office of the Securities Department during regular business hours as specified in Section 135.2100 of this Part.
- c) At the time of any service upon the Secretary of State pursuant to Section 5-80(e) of the Act, there shall be paid a fee in the amount specified in Section 135.2110 of this Part, which shall not be returnable in any event. Each process, notice or demand shall be submitted with a separate payment.
- d) The Securities Department shall keep a record, which shall show the date of service, of all the processes, notices and demands received.

Section 135.801 Scope of the Law

The registration and disclosure requirements under the Act or this Part shall apply only to the offer or sale of a business opportunity in this State to a purchaser who is domiciled in this State, or where the offer of the business opportunity is made or accepted in this State or the business opportunity is or will be located in this State.

SUBPART F: VIOLATIONS

Section 135.950 Fraudulent Practices

It shall be a violation of Section 5-95 of the Act for any person, in connection with the offer or sale of any business opportunity in this State sold pursuant to the exemptions granted under Section 5-10(a), (c) or (d) of the Act, directly or indirectly:

- a) to employ any device, scheme or artifice to defraud;
- b) to make any untrue statement of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section 135.1300 Request for Non-Binding Statements

- a) Required information and format.
 - 1) All requests for non-binding statements shall be in writing and be accompanied by the fee set forth in Section 135.2110 of this Part. The request shall be filed with the Securities Department

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and shall contain the following:

- A) A brief summary of the Sections of the Act and of this Part to which the request pertains;
 - B) A detailed factual representation concerning every relevant aspect of the proposed transaction, such as names of affected parties, type and description of business opportunity, details regarding the transactions, each claim of exemption, if any, and reasoning in support of each such claim. Requests should be limited to the particular situation, and should not attempt to include every possible type of situation which may arise in the future;
 - C) A discussion of current statutes, rules and legal principles relevant to the facts set forth;
 - D) A statement setting forth the person's own opinion in the matter and the basis for such opinion; and
 - E) A representation that the transaction in question has not been commenced and will not commence for at least 30 days.
- 2) The Securities Department will not respond to requests for non-binding statements involving the anti-fraud provisions of the Act or the Rules.
 - 3) The Securities Department will not respond to requests for non-binding statements with respect to transactions which have already taken place.
 - 4) The Securities Department will not respond to requests based upon hypothetical facts or involving unnamed parties.
 - b) Review procedure. After a review of the relevant facts presented, in light of existing judicial, legislative and administrative history, the Securities Department may issue its finding as to the applicability of the Act to the situation presented in the form of a non-binding statement stating that it will recommend that no enforcement action be initiated against the parties involved if all the facts are true and complete. Facts or conditions different than those presented may require different conclusions and persons other than those requesting the statement should not rely on the statement.
 - c) Availability of non-binding statements issued by the Department.
 - 1) The Securities Department will maintain an index by statutory Section(s) involving all non-binding statements issued.
 - 2) Copies of such statements may be reviewed in the Securities Department's Springfield office and copies thereof may be obtained upon payment of the cost of duplication as set forth in Section 135.2110 of this Part.

SUBPART H: PUBLIC INFORMATION

Section 135.1400 Inspection of Business Opportunity Records

Records of all registered business opportunities are available for public inspection during the business hours at the Springfield office of the

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Securities Department of the Secretary of State upon written request.

Section 135.1401 Non-Public Distribution of Information

Information or documents obtained by employees of the Secretary of State in the course of any examination or investigation pursuant to Section 5-60 of the Act shall, unless made a matter of public record, be deemed confidential. Employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Secretary of State available to anyone other than an employee of the Secretary of State, or other governmental agency, unless the Secretary of State authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest.

SUBPART I: RULES OF GENERAL APPLICATION

Section 135.2100 Business Hours of the Securities Department

- a) The principal office of the Securities Department at Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.
- b) An office of the Securities Department at 17 North State Street, Suite 1100, Chicago, Illinois 60601 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

Section 135.2101 Computation of Time

The time within which an act under the Act shall be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or holiday as defined or fixed in any Statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

Section 135.2110 Payment of Fees

- a) Fees under the Act are as follows:

Section 5-10
Order of Exemption/Filing Fee \$300

Section 5-30
Initial Disclosure Document Filing Fee \$300

Section 5-30(e)
Renewal Filing Fee \$300
Renewal Late Fee \$100*

Fee to Report a Material Change to Required Disclosure pursuant to Section 135.352(b) of this Part \$25

Business Opportunity Fee to report a change in its form of organization or a change of its name \$20

Fee for the failure to file or file timely any required document or information \$250

Fee for each subsequent failure to file or file timely any required document or information \$500

Section 5-75
Non-Binding Statement \$75

Section 5-80
Service of Process (when served upon the Secretary) \$10

Certificate \$10

Certified Copy of Document Each Page Certified \$10 plus \$.50

Duplication of Documents each page duplicated \$.50

Additional fee for payment of fee returned to the Securities Department due to insufficient funds or for a similar reason \$50

*If the renewal application is filed within 9 business days preceding the expiration of the current registration.

- b) All payments of fees, except for payment of administrative fines under the Act, as set forth below, shall be made by check, money order, certified check, bank cashier's check, or indicia of forms of

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electronic transfer of funds payable to the "Secretary of State". No third party check or money order endorsed over to the Secretary of State shall be accepted as payment of any fee. All payments for administrative fines under the Act, in excess of \$500, except for a person registered under Section 5-10 or 5-30 of the Act, shall be made by money order, certified check or bank cashier's check.

- c) Any person whose payment of fees is returned to the Securities Department due to insufficient funds or for a similar reason shall pay to the Secretary of State the amount of fee owed plus an additional fee as set forth in this Section for each payment returned. This fee shall include the fee required by 5 ILCS 290/10.
- d) The Secretary of State shall require any person to make payment of fees in the form of a money order, certified check or bank cashier's check if any previous payment of fees has been returned to the Securities Department due to insufficient funds or for a similar reason.

- e) All payment of fees under of this Act shall be deemed to be filed and the fees paid upon receipt by the Securities Department, provided that the fee paid is not less or more than five dollars of the amount due.

Section 135.2120 Place of Filing

All applications for registration or exemption from registration and other papers filed with the Securities Department or the Secretary of State pursuant to the Act shall be filed at Lincoln Tower, Suite 200, 520 South Second Street, Springfield, Illinois 62701. Such material may be filed by delivery to the Securities Department, through the mail or otherwise.

Section 135.2130 Date of Filing

- a) The date of filing of any document required to be filed with the Securities Department shall be the date of delivery of the document and any required fee to the Securities Department in Springfield, Illinois, as specified in Section 135.2120 of this Part, or if a document or fee is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the document or fee was mailed on the date shown on the record.

- b) A document may not be deemed to be filed with the Secretary of State unless all requirements of the Act with respect to such filing have been complied with and the required fee has been paid.

Section 135.2140 Requirements as to Proper Form

Any document filed with the Securities Department pursuant to the Act shall be prepared in accordance with the form, if any, prescribed by the Securities Department. Any such document shall be deemed to be filed on the proper form

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unless objection to the form is made by the Securities Department.

Section 135.2141 Additional Information

In addition to the information expressly required to be included in an application for registration, the applicant shall include other, material information, which may be necessary to make the required statements truthful.

Section 135.2143 Information Unknown or Not Reasonably Available

Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either due to unreasonable effort or expense, or because it rests within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions:

- a) The registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.
- b) The registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

Section 135.2144 Requirements as to Paper, Printing, and Language

- a) Application for registration shall be filed on good quality, unglazed, white paper, 8 1/2 by 11 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper, if folded to that size, and the prospectus may be on smaller paper but not less than 7 1/2 by 9 inches in size.
- b) The application for registration, and all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the application or any portion thereof may be prepared by any similar process which, in the opinion of the Secretary of State, produces copies suitable for permanent record. All copies of the material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated to be clearly distinguishable as such on photocopies.
- c) The application for registration shall be in the English language. If any exhibit or other paper or document filed with the application for registration is in a foreign language, it shall be accompanied by a translation into the English language.

Section 135.2145 Number of Copies--Signatures

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- a) One copy of the completed application for registration, manually signed by the applicant, including exhibits and all other papers and documents filed as a part of the application, shall be filed with the Secretary of State.
- b) If any name is signed to the application for registration pursuant to a power of attorney, copies of the power of attorney shall be filed with the application for registration. In addition, if the name of any officer signing on behalf of the applicant, or attesting to the applicant's seal, is signed pursuant to a power of attorney, copies of a resolution of the applicant's board of directors authorizing the signature shall be filed with the application for registration.

Section 135.2190 Provisions for Granting of Variance from Rules

The Secretary of State or his or her designee may grant variances from this Part in individual cases where he determines that:

- a) the provision from which the variance is granted is not statutorily mandated;
- b) no party will be injured by granting the variance; and
- c) the Section from which the variance is granted would, in the particular case, be unnecessarily burdensome.

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- 1) Heading of the Part: Regulations under the Illinois Business Brokers Act of 1995.

- 2) Code Citation: 14 Ill. Adm. Code 140

- 3) Section Numbers: Proposed Action:

140.50	New
140.51	New
140.100	New
140.120	New
140.130	New
140.200	New
140.300	New
140.301	New
140.302	New
140.303	New
140.304	New
140.400	New
140.750	New
140.800	New
140.801	New
140.802	New
140.803	New
140.804	New
140.805	New
140.806	New
140.807	New
140.808	New
140.1000	New
140.1200	New
140.1400	New
140.1401	New
140.2100	New
140.2101	New
140.2110	New
140.2120	New
140.2130	New
140.2140	New
140.2141	New
140.2142	New
140.2143	New
140.2144	New
140.2145	New
140.2190	New

- 4) Statutory Authority: 815 ILCS 307

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5) A Complete Description of the Subjects and Issues Involved:

- Section 140.050 - Added to define the scope of the Law.
- Section 140.051 - Added to define terms used in the Act and Rules.
- Section 140.100 - Added to lay out procedures for registration.
- Section 140.120 - Added to lay out procedures for withdrawing pending application or terminating registration.
- Section 140.130 - Added to lay out procedures for abandoning incomplete applications.
- Section 140.200 - Added to lay out procedures for renewal.
- Section 140.300 - Added to define when disclosure statement is required.
- Section 140.301 - Added to define purpose of disclosure and compliance.
- Section 140.302 - Added to clarify contents of disclosure statement.
- Section 140.303 - Added to define providing the contract with the disclosure statement.
- Section 140.304 - Added to define providing the contract to client.
- Section 140.400 - Added to define procedures for Hearings.
- Section 140.750 - Added to define records required of Business Brokers.
- Section 140.800 - Added to define previous and ongoing contracts and transactions not affected.
- Section 140.801 - Added to define burden of proof.
- Section 140.802 - Added to define exemption for franchises.
- Section 140.803 - Added to define exemptions for waiting period.
- Section 140.804 - Added to define exemption for attorneys.
- Section 140.805 - Added to define exemption for certified public accountants.
- Section 140.806 - Added to define persons exempt from Act and Regulations.
- Section 140.807 - Added to define transactions exempt from the Act and

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Regulations.

- Section 140.808 - Added to define exemption for Real Estate Brokers and Real Estate Salespersons.
- Section 140.1000 - Added to define procedure for Service of Process.
- Section 140.1200 - Added to define procedure for request for non-binding statements.
- Section 140.1400 - Added to define public inspection of records.
- Section 140.1401 - Added to define non-public distribution of information.
- Section 140.2100 - Added to define business hours of the Securities Department.
- Section 140.2101 - Added to define computation of time.
- Section 140.2110 - Added to define payment of fees.
- Section 140.2120 - Added to define place of filing.
- Section 140.2130 - Added to define date of filing.
- Section 140.2140 - Added to define requirements as to proper form.
- Section 140.2141 - Added to define additional information.
- Section 140.2142 - Added to define additional exhibits.
- Section 140.2143 - Added to define information unknown or not reasonably available.
- Section 140.2144 - Added to define requirements as to paper, printing and language.
- Section 140.2145 - Added to define number of copies -- signatures.
- Section 140.2190 - Added to define provisions for granting variances from Rules.
- 6) Will this proposed rule replace an emergency rule currently in effect? Yes - 140.50, 140.51, 140.100, 140.120, 140.300, 140.301, 140.302, 140.303, 140.304, 140.400, 140.750, 140.800, 140.801, 140.802, 140.803, 140.804, 140.805, 140.806, 140.807, 140.808, 140.1000, 140.1200, 140.2100, 140.2101, 140.2110, 140.2120, 140.2130, 140.2140, 140.2141, 140.2142, 140.2143, 140.2144, 140.2145, 140.2190.

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- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: To enact the provisions of the Illinois Business Brokers Act of 1995.
- 11) Time, place, and manner in which interested persons may comment on this proposed rulemaking:

Michael A. Chizmar
 Illinois Securities Department
 Lincoln Tower, Suite 200
 520 South Second Street
 Springfield, IL 62701
 (217) 524-8040

All comments must be in writing.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some of the applicants may be small businesses which offer business brokering to the public.

B) Reporting, bookkeeping or other procedures required for compliance: Unless exempt would have to register; disclosure statement required by Statute; required to maintain files mandated by Statute.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: To enact the Illinois Business Brokers Act of 1995. The Act creates regulation of Business Brokers in the State of Illinois.

The full text of the Proposed Rules begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 14: COMMERCE
 SUBTITLE A: REGULATION OF BUSINESS
 CHAPTER I: SECRETARY OF STATE

PART 140

REGULATIONS UNDER THE ILLINOIS BUSINESS BROKERS ACT OF 1995

SUBPART A: DEFINITIONS

Section
 140.100
 140.101

Scope of the Law
 Definitions of Terms Used in the Act and the Rules

SUBPART B: REGISTRATION OF BUSINESS BROKERS

Section
 140.120

Procedures for Registration as a Business Broker Under Section 10-10 of the Act

140.120

Procedures for Withdrawal of Pending Application or Termination of Registration as a Business Broker

140.130

Procedure with Respect to Abandoned Incomplete Applications for Registration as a Business Broker

140.200

Procedures for Renewal of Registration as a Business Broker Under Section 10-20 of the Act

140.300

When Disclosure Statement Must Be Provided

140.301

Purpose of Disclosure; Substantial Compliance

140.302

Contents of Disclosure Statement

140.303

Providing the Contract With the Disclosure Statement

140.304

Providing the Contract to Client

SUBPART C: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section
 140.400

Hearings

SUBPART D: RECORDS

Section
 140.750

Records Required of Business Brokers

SUBPART E: EXEMPTIONS

Section
 140.800
 140.801
 140.802
 140.803

Previous and Ongoing Contracts and Transactions Not Affected
 Burden of Proof
 Franchises
 Exemptions from Waiting Period and Disclosure Requirements Pursuant to Section 10-30 of the Act

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Section 140.50 Scope of the Law

The Illinois Business Broker Act of 1995 [815 ILCS 307] shall apply only when the person engaged or sought to be engaged by the business broker is domiciled in this State or, if a company or business, has its principal place of business in this State.

Section 140.51 Definitions of Terms Used in the Act and the Rules

a) As used in the Act and this Part, unless the context otherwise requires, the term:

"Act or Law" means the Illinois Business Brokers Act of 1995 [815 ILCS 307].

"Advertising" means any circular, prospectus, advertisement, or other material or any communication by radio, television, pictures or similar means used in connection with an offer or sale of any business.

"Affiliate" of, or a person "affiliated" with, a specified person means a person who, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"Applicant" means the person making application for registration.

"Branch Office":

Branch office means any office, residence, or other place or location in this State where the business of a registered business broker is conducted and which is owned or controlled by, or operated directly, or indirectly for the benefit of, the registered business broker and where the business of the business broker is conducted by a principal, agent, or employee for such registered business broker.

The principal office located in this State of the registered business broker shall not be considered a branch office.

Except as otherwise provided in this Section, each office, residence, or other place or location where business is being conducted in this State on behalf of a registered business broker shall be considered a branch office for the registered business broker.

"Business Broker" is any person that engages in any of the actions specified in Section 10-5.10 of the Act for compensation,

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140.804 Exemption for Attorneys
140.805 Exemption for Certified Public Accountants
140.806 Persons Exempt from the Act and This Part
140.807 Transactions Exempt from the Act and This Part
140.808 Real Estate Brokers and Real Estate Salespersons -- Service
140.809 Incidental to a Real Estate Brokerage Agreement

SUBPART F: SERVICE OF PROCESS

Section
140.1000 Service of Process upon the Secretary of State

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section
140.1200 Request for Non-Binding Statements

SUBPART H: PUBLIC INFORMATION

Section
140.1400 Inspection of Business Broker Records
140.1401 Non-Public Distribution of Information

SUBPART I: RULES OF GENERAL APPLICATION

Section
140.2100 Business Hours of the Securities Department
140.2101 Computation of Time
140.2110 Payment of Fees
140.2120 Place of Filing
140.2130 Date of Filing
140.2140 Requirements as to Proper Form
140.2141 Additional Information
140.2142 Additional Exhibits
140.2143 Information Unknown or Not Reasonably Available
140.2144 Requirements as to Paper, Printing, and Language
140.2145 Number of Copies--Signatures
140.2190 Provisions for Granting of Variance from Rules

AUTHORITY: Implementing and authorized by the Illinois Business Brokers Act of 1995 [815 ILCS 307].

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 603, effective January 1, 1996, for a maximum of 150 days; adopted at 20 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

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including promises to procure a buyer for a business or assisting any business in procuring a buyer, except a person who is selling a business owned or operated by that person in a one time transaction. Does not include individuals engaged in business brokering on behalf of a registered business broker, provided that such non-registered individuals have been identified in the registration application of the registered business broker.

"Client" means any person who has signed a business broker agreement which provides for such person to be represented by the business broker and obligating that person to compensate the business broker under some circumstance.

"Date of Filing" means the date that all of the required documents are received by the Securities Department and all the required fees are paid to the Secretary of State. A document shall not be deemed to be filed if any material information required by the Act is omitted or the document is illegible.

"Director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Dominant Element of a Transaction" as used in Section 10-5.15 and Section 10-80(a)(2) of the Act means any transaction in which (1) 50% of the purchase price or 50% of the net asset value of the business being sold is real estate; and (2) real estate is an integral part of the business being sold. The percentage of the transaction made up of the purchase price or net asset value of the real estate shall be based upon the reasonable expectation of the person potentially acting as a business broker and the client at the time the brokerage contract or agreement for services is entered into; or (3) real estate is the single largest part of the transaction.

"Employee" does not include a director, trustee, or officer.

"Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 U.S.C. 227), and the Rules and Regulations thereunder as in effect on July 1, 1989.

"Hearing" means a proceeding conducted by the Securities Department in which the rights, privileges, immunities, duties or obligations of any person or party are required by law to be determined by the Secretary of State only after opportunity for a hearing.

"Insolvency" only pertains when such insolvency renders the

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business broker unable to perform any contractual obligations of its business brokering duties.

"Material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable person would consider it important.

"Offer or Offer to Sell" includes every attempt to dispose of a business for value or solicitation of an offer to purchase a business.

"Officer" means the president; any vice president in charge of a principal business unit, division or function; the secretary; the treasurer; any principal financial officer, comptroller or principal accounting officer; any other officer performing a principal policy-making function and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Ongoing Business" means an existing business that, for at least six months prior to the offer, has been operated from a specific, but not necessarily the same, location, has been open for business to the general public and has substantially all of the equipment and supplies necessary to operate the business.

"Principal" means any officer, director, partner, member, trustee, or manager of such business broker who is responsible for the supervision and management of the daily business operations in this State of such business broker.

"Proposed Client" means any person who has executed a disclosure statement which he or she has received from a business broker and has delivered or caused to be delivered the disclosure statement back to the business broker.

"Purchaser" means a person who enters into a contract or agreement for the acquisition of a business or a person to whom an offer to sell a business is directed.

"Real Estate" means and includes leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or non-freehold, and whether the real estate is situated in Illinois or elsewhere.

"Rules" refers to all rules adopted by the Secretary of State pursuant to the Act.

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"Sale or Sell" means every contract or agreement of sale, contract to sell, or the disposition of a business or interest in a business for value.

"Secretary of State" means the Securities Department of the Office of the Illinois Secretary of State or the Secretary of State or the Securities Director, or his or her designee, as the case may be.

"Section" refers to a Section of this Part unless a reference to the Act is specifically made.

"Seller" means a person who sells or offers to sell a business or any agent or person who directly or indirectly acts on behalf of such person, except that a person acting as a business broker is neither a seller nor buyer.

- b) A Section of this Part which defines a term without express reference to the Act or to this Part defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

SUBPART B: REGISTRATION OF BUSINESS BROKERS

Section 140.100 Procedures for Registration as a Business Broker Under Section 10-10 of the Act

No person shall be registered as a business broker unless such person submits a completed application as set forth in this Section.

- a) Each applicant for registration as a business broker shall file with the Secretary of State Securities Department a completed and current application on Illinois Form BB01 and pay to the Securities Department all appropriate fees as specified in Section 140.2110 of this Part. The application shall be accompanied by the following:

- 1) A Consent to Service of Process for the applicant on Illinois Form BB10, unless the applicant is a corporation organized or authorized to transact business under the laws of this State;
- 2) The disclosure document required under Section 10-30(b) of the Act or Section 10-30(b)(1) of the Act and Section 140.302 or 140.303 of this Part (no contract need accompany the statement);
- b) Upon the grant of registration of a business broker, the Securities Department shall issue to the business broker proof of registration as evidence of such registration;
- c) The application and documents on file with the Securities Department with respect to the business broker shall be amended whenever a change occurs which renders the information contained therein not accurate in any material respect. Such amendment shall be filed with the Securities Department within ten business days after the occurrence of

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- d) the change; and
- Information submitted in applications for registration or renewal which is personal in nature shall be treated as confidential. In addition, an applicant may request that certain information in its application be kept confidential. The Securities Department shall honor such request if the information is personal in nature or if public access to the information is not reasonably necessary to further the purposes of the Act.

Section 140.120 Procedures for Withdrawal of Pending Application or Termination of Registration as a Business Broker

If a business broker elects to withdraw its pending application prior to registration in this State, or if a registered business broker wishes to terminate its registration in this State, it shall provide written notice to the Securities Department indicating such intent. Any fees paid shall not be returnable in any event.

Section 140.130 Procedure with Respect to Abandoned Incomplete Applications for Registration as a Business Broker

- a) When an incomplete application for registration as a business broker has been on file with the Secretary of State for a period of six months, the Secretary of State may, in his or her discretion, proceed in the following manner to determine whether the application for registration has been abandoned by the applicant.

b) A notice will be sent to the applicant named in the application for registration, by certified mail, return receipt requested, addressed to the most recent address reflected in the application for registration. The notice will inform the applicant that the application for registration is incomplete and:

- 1) the deficiencies must be corrected and refiled; or
- 2) written intent to complete, within a specified period, must be filed to comply with the applicable requirements of the Act; or
- 3) the application may be withdrawn within 30 days after the date of notice; or
- 4) an Order of Abandonment shall be entered by the Secretary of State.

c) Should the applicant fail to respond to such notice by filing the information or document necessary to correct the deficiencies or withdrawing the application for registration, the Secretary of State shall enter an order declaring the application for registration abandoned.

- d) When such an order is entered by the Secretary of State:

- 1) the filing, examination, and registration fees paid upon the filing of the application for registration will not be returned; and
- 2) the records of the Secretary of State will be marked to indicate

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that the application for registration was abandoned and the date of the order.

- e) The applicant may request an administrative hearing in writing within 15 days after receipt of the Order of Abandonment. A request for hearing shall set forth the grounds upon which the applicant petitions for a hearing.

Section 140.200 Procedures for Renewal of Registration as a Business Broker Under Section 10-20 of the Act

- a) If a registered business broker wishes to renew its registration, it shall file with the Securities Department a completed and current Illinois Form BB01 together with the renewal application filing fee, examination fee, and branch office fee, if any, as specified in Section 140.2110 of this Part.
- b) Any amendment(s) shall also be filed with the Securities Department within ten (10) business days if any material changes occur in the information that was filed with the Securities Department when the business broker applied for registration.
- c) Any application for renewal of registration of a business broker filed with or fees paid to the Securities Department within 29 days or less prior to the date upon which the registration or renewal would expire shall pay an additional fee set forth in Section 140.2110 of this Part.
- d) Upon receipt of the renewal fees the Securities Department shall issue the business broker proof of renewal as evidence of such registration.

Section 140.300 When Disclosure Statement Must Be Provided

- a) Except as provided in Section 140.803 of this Part, a business broker shall provide a disclosure statement consistent in all material respects with this Section to any client or proposed client at least seven days before the earlier of:
 - 1) The time such client or proposed client signs a contract for the services of the business broker; or
 - 2) The time the business broker receives any consideration upon the contract.
- b) As used in this Part and in the Act, the term "client" does not include a person who is under no obligation to compensate the business broker under any circumstances.
- c) The Secretary of State recommends that business brokers have each client and proposed client sign and date an acknowledgment of receipt when the disclosure statement is provided.

Section 140.301 Purpose of Disclosure; Substantial Compliance

- a) The Secretary of State has determined that the disclosure statement and waiting period requirements of the Act should be interpreted and

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enforced so as to further the objective of the Act. That objective is to ensure that clients and proposed clients of business brokers have full disclosure of the material terms in the business broker's contract with the client, have an opportunity to review those terms and, at the client's request, have an attorney review the contract.

- b) Where a business broker has reasonably tried to comply with the provisions of this Part, such broker shall be deemed to have complied with Section 10-30 of the Act if the client or proposed client has been provided with all material information required by this Part and has had a full opportunity to review and consider the information, to review the business broker's contract, and to have the business broker's contract reviewed by an attorney.
- c) The Secretary of State recommends that business brokers have each client or proposed client sign and date an acknowledgment of receipt when the disclosure statement is provided.

Section 140.302 Contents of Disclosure Statement

The disclosure statement shall contain the following information:

- a) Nothing except the following language in at least 10-point boldface capital letters shall appear on the cover page (example in Section 140.303):
 - 1) *Disclosures required by law;*
 - 2) *The Secretary of State has not reviewed and does not approve, recommend, endorse or sponsor any business brokerage contract. The information contained in this disclosure has not been verified by the Secretary of State; and*
 - 3) *If you have any questions, see an attorney before you sign a contract or agreement.*
- b) On the following pages, the information as set forth in Section 10-30(b) of the Act shall be provided including (example in Section 140.303):
 - 1) The name and form of organization of the business broker, the names under which the business broker has done, is doing, or intends to do business, and the name of any parent organization or affiliate of the broker;
 - 2) The names, addresses, and titles of the business broker's officers, directors, trustees, general partners, general managers, principal executives, and any other person performing similar duties;
 - 3) A full and detailed description of the actual services that the business broker undertakes to perform for the proposed client; and
 - 4) A specific statement of the circumstances under which the business broker will be entitled to obtain or retain consideration from the party with whom the business broker contracts.
- c) The information in (b)(3) and (b)(4) of this Section need not be set

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out on the disclosure statement if the business broker's contract is provided with the disclosure statement.

Section 140.303 Providing the Contract With the Disclosure Statement

- a) Because the purpose of the disclosure statement is to provide full information about the material terms of the business broker's contract with the client, the Secretary of State encourages business brokers to include a copy of the contract with the disclosure statement. When the contract is provided to the client with the disclosure statement, the disclosure statement need not contain either:
- 1) the full and detailed description of the actual services that the business broker undertakes to perform; or
 - 2) a specific statement of the circumstances under which the business broker will be entitled to obtain or retain consideration from the party with whom the business broker contracts.
- b) The following is an example of page one which, if prepared as follows and accurate in all material respects will be deemed to comply with the Act (important: nothing except the following language in at least 10-point boldface capital letters shall appear on the cover page):
- 1) **Disclosures required by law:**
 - 2) **The Secretary of State has not reviewed and does not approve, recommend, endorse or sponsor any business brokerage contract. The information contained in this disclosure has not been verified by the Secretary of State; and**
 - 3) **If you have any questions, see an attorney before you sign a contract or agreement.**
- c) The following is an example of page two (**this is not a form**):

The information regarding the Business Broker's organization, principals, services and fees is being provided in this Disclosure Statement pursuant to the Illinois Business Brokers Act of 1995 (815 ILCS 307/10-30(b)).

The business broker contract (or fee agreement) is provided with this disclosure statement and is an integral part of this disclosure statement.

Read both this disclosure statement and the contract or agreement carefully. You are encouraged to have the contract or agreement reviewed by an attorney.

Organization

Organization Name: _____ Type: _____

Business Name (if different): _____

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Address: _____

Name(s) Business:	Under	which	Business	Broker	Has	Done
_____	_____	_____	_____	_____	_____	_____

Parents/Affiliates: _____

List of Business Broker's officers, directors, trustees, general partners, general managers, principal executives and others performing similar duties: _____

President: _____ Address: _____

Vice President: _____ Address: _____

Principal: _____ Address: _____

Services

The actual services that the Business Broker undertakes to perform are set forth in the Business Broker Contract (or Fee Agreement). Those are the only services that the Business Broker is obligated to provide.

Client's Obligations

The circumstances under which you will be obligated to pay the Business Broker (or the Business Broker will be permitted to retain money you have paid) are set forth in the Business Broker Contract (or Fee Agreement). Read the contract or agreement carefully.

Client Acknowledgment:

I received this Disclosure Statement and a copy of the Business Broker Contract (or Fee Agreement) on the date set forth below.

Date: _____ Client Signature: _____

Name (printed): _____

Section 140.304 Providing the Contract to Client

The client shall have the right to retain a copy of the signed contract for the services of a business broker. The client's copy of the contract shall be provided to the client when the contract is signed, if feasible and the client

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so requests. Otherwise, the contract shall be mailed or otherwise sent to the client within one week after the signing. No account number is required on the client's copy of the contract.

SUBPART C: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section 140.400 Hearings

Any hearing required pursuant to the Act or by this Part shall be held pursuant to 14 Ill. Adm. Code 130, Subpart K: Procedures for Administrative Hearings.

SUBPART D: RECORDS

Section 140.750 Records Required of Business Brokers

a) Each business broker agreement shall be given a unique identifying account number and all instruments taken in connection with that agreement must bear this number. Every business broker registered by the Secretary of State shall keep and maintain for a period of six years (unless the client or proposed client has not paid the agreed fee, excluding expenses and retainer fee, or the deal was not consummated) from the date of the client agreement in the business broker's principal office in this State the following records:

1) A business broker agreement register that consists of a chronological listing of all business broker agreements that have been entered into. For each business broker agreement the register shall contain the following:

- A) The account number;
- B) The date of the agreement;
- C) The name of the client or proposed client;
- D) The amount of fees charged, if any; and
- E) The cost and type of insurance required, if any.

2) A file for each client or proposed client shall contain the following:

- A) The name, address, and telephone number of the client or proposed client, as defined in Section 140.51 of this Part;
- B) A copy of the signed business broker agreement;
- C) A copy of any other papers or instruments used in connection with the business broker agreement that are signed by the client or proposed client, including a copy of the disclosure document required by Section 10-30 of the Act that contains an acknowledged receipt by the client or proposed client; and
- D) The amount of the business broker's fee that the client has paid. If there is an unpaid balance, the status of any collection efforts.

3) All receipts from or for the account of clients or proposed clients and all disbursements to or for the account of clients or

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proposed clients, recorded so that the transactions are readily identifiable.

- 4) A general ledger that shall be posted at least monthly, and a trial balance sheet and profit and loss statement prepared within 30 days after the Secretary of State's request for information.
- 5) A copy of the following:

A) All advertisements, pamphlets, circulars, letters, articles or communications published in any newspaper, magazine or periodical which discuss the business broker, business broker agreement(s), or any business represented by the business broker;

B) Scripts of any recording or radio or television announcement which discuss the business broker, business broker agreement(s), or any business represented by the business broker; and

C) Any sales kit or literature used or to be used in solicitation of clients.

b) Every registered business broker shall preserve during the life of the enterprise and of any successor enterprise all partnership agreements, certificates or articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

c) After a record or other documents have been preserved for two years, an accurate copy on any form of information retrieval device may be substituted therefor for the balance of the required time.

d) Every business broker registered by the Secretary of State shall maintain within this State, in an easily accessible place, all records required by this Section or the Act. All records required to be maintained under this Section or the Act must be separate or readily identifiable from the records of any other business that is conducted in the office of the business broker. A written request for a waiver of the provisions of this Section may be made to the Secretary of State to permit any registered business broker to maintain any of the records required by this Section or the Act outside the State of Illinois. In determining whether the provisions of this Section should be waived, the Secretary of State shall consider, without limitation, whether the main office of the business broker is outside the State of Illinois or whether the business broker uses all or some of the bookkeeping facilities of some other business broker whose main office is outside the State of Illinois.

SUBPART E: EXEMPTIONS

Section 140.800 Previous and Ongoing Contracts and Transactions Not Affected

All business broker agreements and transactions between a business broker and its clients or proposed clients which do not comply with the Act or this Part, if entered into prior to January 1, 1996, shall be deemed to be valid and

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enforceable, notwithstanding this Part or the Act.

Section 140.801 Burden of Proof

In any administrative, civil, or criminal proceeding related to the Act, the burden of proving an exemption, an exception from a definition or an exclusion from the Act is upon the person claiming it.

Section 140.802 Franchises

Persons registered pursuant to the Illinois Franchise Disclosure Act of 1987 [815 ILCS 705] (and their employees) are exempt from the requirements of the Act as to: offers and sales in connection with such franchising activities; or assisting any of their franchisees in the offer or sale of a franchise by any such franchisee for its own account regardless of whether the sale is effected by or through such registered persons.

Section 140.803 Exemptions from Waiting Period and Disclosure Requirements Pursuant to Section 10-30 of the Act

The requirements that a business broker provide a written disclosure statement and wait at least seven days before the client signs a contract with the business broker or before the business broker receives any consideration upon the contract shall not apply if:

- a) The client to be represented by the business broker is:
 - 1) A natural person who has, or is reasonably believed by the business broker relying upon this Section to have, a net worth or joint net worth with that person's spouse in excess of \$1,000,000 at the time of the execution of the business broker agreement; or
 - 2) A natural person who has, or is reasonably believed by the business broker relying upon this Section to have, an income or joint income with that person's spouse in excess of \$200,000 in the most recent fiscal year; or
 - 3) A company or business that has, or is reasonably believed by the business broker relying upon this Section to have, a total asset value in excess of \$1,000,000 and has been in existence for at least nine months and was not formed for the purposes of this transaction; or
 - 4) A company or business that has, or is reasonably believed by the business broker relying upon this Section to have, gross revenue sales in excess of \$200,000 in the most recent fiscal year and has been in existence for at least nine months and was not formed for the purposes of this transaction; or
 - 5) A company or business in which at least 90% of the equity interest is owned, or is reasonably believed by the business broker relying upon this Section to be owned, by persons who meet any of the tests set forth in subsection (a)(1), (2), (3) or (4) of this Section.

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- b) An attorney reviewed the business broker's contract.
- c) A business broker shall be entitled to rely upon a statement signed by the client or proposed client that:
 - 1) the client is in one of the categories enumerated in subsections (a)(1) through (a)(5) or (b) of this Section. Illinois Form BB02 may be utilized by the business broker for this purpose; or
 - 2) the client had an attorney review the business broker's contract with the client. Illinois Form BB03 may be utilized by the business broker for this purpose.
- d) The contract provides that the client or proposed client shall be entitled to cancel the terms of the contract and receive a refund of any consideration paid for seven days immediately following the execution of the contract.

Section 140.804 Exemption for Attorneys

Section 10-80(a)(1) of the Act only applies to any attorney who is licensed to practice in Illinois, while engaged in the practice of law and whose service in relation to the business broker transaction is incidental to his or her practice.

Section 140.805 Exemption for Certified Public Accountants

Any certified public accountant licensed to practice in Illinois, while engaged in the practice as a certified public accountant and whose service in relation to the business broker transaction is incidental to his or her practice, is exempt from the requirements of the Act.

Section 140.806 Persons Exempt from the Act and This Part

The following persons are exempt from the requirements of the Act and of this Part:

- a) Any person who is selling a business owned or operated (in whole or in part) by that person in a one time transaction;
- b) Any person licensed to engage in business as a real estate broker or salesperson in Illinois while rendering services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required, provided that:
 - 1) real estate is the dominant element, as defined in Section 140.51 of this Part, of the transaction; or
 - 2) such person reasonably believed that real estate would be the dominant element, as defined in Section 140.51 of this Part, of the transaction at the time such person was engaged by the client;
- c) Such persons enumerated in Section 10-80(a)(3) of the Act; and
- d) Any financial institutions listed in Section 10-80(b) of the Act.

Section 140.807 Transactions Exempt from the Act and This Part

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The following transactions are not covered by the Act or this Part:

- a) Any sale or purchase of a business (or any interest therein) where the transaction is a securities transaction involving securities subject to the Illinois Securities Law of 1953 [815 ILCS 5]; or
- b) Any sale or purchase of a business (or any interest therein) wherein the sale or exchange of real estate is the dominant element, as defined in Section 140.51 of this Part, of the transaction.

Section 140.808 Real Estate Brokers and Real Estate Salespersons -- Service Incidental to a Real Estate Brokerage Agreement

Any real estate broker or real estate salesperson who has entered into a Brokerage Agreement, as defined in the Illinois Real Estate License Act [225 ILCS 455], and whose service in relation to the business broker transaction is incidental to the performance of the Brokerage Agreement is exempt from the requirements of the Act.

SUBPART F: SERVICE OF PROCESS

Section 140.1000 Service of Process upon the Secretary of State

- a) Any process, notice or demand to be served upon the Secretary of State under the Act shall be made by delivering personally to the Securities Director, or any employee of the Securities Department designated by the Securities Director to accept such service on behalf of the Secretary of State, or by sending by registered mail or certified mail, return receipt requested, a copy of the process, notice or demand to the Securities Department. Procedures for service are specified as follows:

- 1) Service upon any person who has filed a consent to service of process upon the Secretary of State;
- 2) Service upon any person who, by virtue of acting as a business broker in this State which is neither registered nor covered by an exemption from registration, shall have appointed the Secretary of State as agent for service of process; and
- 3) Service of a copy of a complaint in a private civil action.
- b) Service of any process, notice or demand under this Section shall be made with the Springfield office of the Securities Department during regular business hours as specified in Section 140.2100 of this Part.
- c) At the time of any service upon the Secretary of State there shall be paid a fee in the amount specified in Section 140.2110 of this Part, which shall not be returnable in any event. Each process, notice or demand shall be submitted with a separate payment.
- d) The Securities Department shall keep a record, which shall show the date of service of all the processes, notices and demands received.

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

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Section 140.1200 Request for Non-Binding Statements

- a) Required information and format.

1) All requests for non-binding statements shall be in writing and be accompanied by the fee set forth in Section 140.2110 of this Part. The request shall be filed with the Securities Department and shall contain the following:

- A) A brief summary of the Sections of the Act and of the Rules to which the request pertains;
- B) A detailed factual representation concerning every relevant aspect of the proposed transaction, such as names of affected parties, details regarding the transactions, each claim of exemption, if any, and reasoning in support of each such claim. Requests should be limited to the particular situation, and should not attempt to include every possible type of situation which may arise in the future;
- C) A discussion of current statutes, rules and legal principles relevant to the facts set forth;
- D) A statement setting forth the person's own opinion in the matter and the basis for such opinion; and
- E) A representation that the transaction in question has not been commenced and will not commence for at least 10 business days.
- 2) The Securities Department will not respond to requests for non-binding statements involving the anti-fraud provisions of the Act or the Rules.
- 3) The Securities Department will not respond to requests for non-binding statements with respect to transactions which have already taken place.
- 4) The Securities Department will not respond to requests based upon hypothetical facts or involving unnamed parties.
- b) Review procedure. After a review of the relevant facts presented, in light of existing judicial, legislative and administrative history, the Securities Department may issue its finding as to the applicability of the Act to the situation presented in the form of a non-binding statement stating that it will recommend that no enforcement action be initiated against the parties involved if all the facts are true and complete. Facts or conditions different than those presented may require different conclusions and persons other than those requesting the statement should not rely on the statement.
- c) Availability of non-binding statements issued by the Department.
 - 1) The Securities Department will maintain a chronological index by statutory Section(s) involving all non-binding statements issued.
 - 2) Copies of such statements may be reviewed in the Securities Department's Springfield office and copies thereof may be obtained upon payment of the cost of duplication as set forth in Section 140.2110 of this Part.

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SUBPART H: PUBLIC INFORMATION

Section 140.1400 Inspection of Business Broker Records

Records of all registered business brokers are available for public inspection during the business hours at the Springfield office of the Securities Department of the Secretary of State upon written request.

Section 140.1401 Non-Public Distribution of Information

Information or documents obtained by employees of the Secretary of State in the course of any examination or investigation pursuant to Section 10-45 of the Act shall, unless made a matter of public record, be deemed confidential. Employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Secretary of State available to anyone other than an employee of the Secretary of State, or other governmental agency, unless the Secretary of State authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest.

SUBPART I: RULES OF GENERAL APPLICATION

Section 140.2100 Business Hours of the Securities Department

- a) The principal office of the Securities Department at Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.
- b) An office of the Securities Department at 17 N. State, Suite 1100, Chicago, Illinois 60602 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

Section 140.2101 Computation of Time

The time within which an act under the Act shall be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or holiday as defined or fixed in any Statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

Section 140.2110 Payment of Fees

- a) Fees under the Act are as follows:

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Section 10-10

Filing, Examination and
Registration Fee

\$200(plus \$50 for
each person
who is

engaged in
business
brokering on
behalf of the
business
brokerage
firm in
excess of
two)

Branch Office Fee

\$20(if in excess
of 2 branch
offices in
this State)

Section 10-20

Renewal Filing and Examination
Fee

\$200(plus \$50 for
each person
who is

engaged in
business
brokering on
behalf of
the
business
brokerage
firm in
excess of
two)

Renewal Branch Office Fee

\$20(if in excess
of 2 branch
offices in
this State)

Renewal Late Fee

\$100(if the
renewal
application
is filed
within 29
days
preceding the
expiration of
the current
registration)

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Business Broker Fee to report a change in its form of organization or change of its name

\$20

Service of Process (when served upon the Secretary)

\$10

Section 10-50

Certificate

\$10

Certified Copy of Document
Each Page Certified

\$10 plus
\$.50

Non-Binding Statement

\$75

Duplication of Documents
Each Page Duplicated

\$.50

Additional fee for payment of fee returned to the Securities Department due to insufficient funds or for a similar reason

\$50

- b) All payments of fees, except for payment of administrative fines under the Act, as set forth below, shall be made by check, money order, certified check, bank cashier's check, or indicia of forms of electronic transfer of funds payable to the "Secretary of State". No third party check or money order endorsed over to the Secretary of State shall be accepted as payment of any fee. All payments for administrative fines, in excess of \$500, under the Act, except for a person registered under Section 10-10 or 10-20 of the Act, shall be made by money order, certified check or bank cashier's check.
- c) Any person whose payment of fees is returned to the Securities Department due to insufficient funds or for a similar reason shall pay to the Secretary of State the amount of fee owed plus an additional fee as set forth in this Section for each payment returned. This fee shall include the fee required by 5 ILCS 290/10.
- d) The Secretary of State shall require any person to make payment of fees in the form of a money order, certified check, or bank cashier's check if any previous payment of fees has been returned to the Securities Department due to insufficient funds or for a similar reason.
- e) All payment of fees under the Act shall be deemed to be filed and the fees paid upon receipt by the Securities Department, provided that the fee paid is not less or more than five dollars of the amount due.

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Section 140.2120 Place of Filing

All applications for registration or exemption from registration and other papers filed with the Securities Department or the Secretary of State pursuant to the Act shall be filed at Lincoln Tower, Suite 200, 520 South Second Street, Springfield, Illinois 62701. Such material may be filed by delivery to the Securities Department, through the mail or otherwise.

Section 140.2130 Date of Filing

- a) The date of filing of any document required to be filed with the Securities Department shall be the date of delivery of the document and any required fee to the Securities Department in Springfield, Illinois, as specified in Section 140.2120 of this Part, or if a document or fee is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the document or fee was mailed on the date shown on the record.
- b) A document may not be deemed to be filed with the Secretary of State unless all requirements of the Act with respect to such filing have been complied with and the required fee has been paid.

Section 140.2140 Requirements as to Proper Form

Any document filed with the Securities Department pursuant to the Act shall be prepared in accordance with the form, if any, prescribed by the Securities Department. Any such document shall be deemed to be filed on the proper form unless objection to the form is made by the Securities Department.

Section 140.2141 Additional Information

In addition to the information expressly required to be included in an application for registration, the applicant shall include other material information, which may be necessary to make the required statements truthful.

Section 140.2142 Additional Exhibits

The registrant may file exhibits in addition to those required by the appropriate form. The exhibits shall be marked to indicate the subject matters to which they refer.

Section 140.2143 Information Unknown or Not Reasonably Available

Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either due to unreasonable effort or expense, or because it rests within the knowledge of another person not

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affiliated with the registrant, the information may be omitted, subject to the following conditions:

- a) The applicant or registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.
- b) The applicant or registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

Section 140.2144 Requirements as to Paper, Printing, and Language

- a) Application for registration shall be filed on good quality, unglazed, white paper, 8 1/2 by 11 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper, if folded to that size, and the prospectus may be on smaller paper, but not less than 7 1/2 by 9 inches in size.
- b) The application for registration, and all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the application or any portion thereof may be prepared by any similar process which, in the opinion of the Secretary of State, produces copies suitable for permanent record. All copies of the material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated to be clearly distinguishable as such on photocopies.
- c) The application for registration shall be in the English language. If any exhibit or other paper or document filed with the application for registration is in a foreign language, it shall be accompanied by a translation into the English language.

Section 140.2145 Number of Copies--Signatures

- a) One copy of the completed application for registration, manually signed by the applicant, including exhibits and all other papers and documents filed as a part of the application, shall be filed with the Secretary of State.
- b) If any name is signed to the application for registration pursuant to a power of attorney, copies of the power of attorney shall be filed with the application for registration. In addition, if the name of any officer signing on behalf of the applicant, or attesting to the applicant's seal, is signed pursuant to a power of attorney, copies of a resolution of the applicant's board of directors authorizing the signature shall be filed with the application for registration.

Section 140.2190 Provisions for Granting of Variance from Rules

The Secretary of State or his or her designee may grant variances from this Part in individual cases where he or she determines that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be injured by granting the variance; and
- c) The Section from which the variance is granted would, in the particular case, be unnecessarily burdensome.

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1) Heading of the Part: Regulations under the Illinois Loan Brokers Act of 1995.

2) Code Citation: 14 Ill. Adm. Code 145

3) Section Numbers: Proposed Action:

145.50	New
145.51	New
145.150	New
145.151	New
145.152	New
145.200	New
145.300	New
145.301	New
145.302	New
145.304	New
145.400	New
145.750	New
145.802	New
145.803	New
145.806	New
145.1000	New
145.1200	New
145.1400	New
145.1401	New
145.2100	New
145.2101	New
145.2110	New
145.2120	New
145.2130	New
145.2140	New
145.2141	New
145.2143	New
145.2144	New
145.2145	New
145.2190	New

4) Statutory Authority: 815 ILCS 175

5) A Complete Description of the Subjects and Issues Involved:

Section 145.050 - Added to define the scope of the Law.

Section 145.051 - Added to define terms used in the Act and Rules.

Section 145.150 - Added to lay out procedures for registration.

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Section 145.151 - Added to lay out procedures for withdrawing pending application or terminating registration.

Section 145.152 - Added to lay out procedures for abandoning incomplete applications.

Section 145.200 - Added to lay out procedures for renewal.

Section 145.300 - Added to define when disclosure statement is required.

Section 145.301 - Added to define purpose of disclosure and compliance.

Section 145.302 - Added to clarify contents of disclosure statement.

Section 145.304 - Added to define providing the contract to client.

Section 145.400 - Added to define procedures for Hearings.

Section 145.750 - Added to define records required of Business Brokers.

Section 145.802 - Added to define exemption for franchises.

Section 145.803 - Added to define exemptions for waiting period.

Section 145.806 - Added to define persons exempt from Act and Regulations.

Section 145.1000 - Added to define procedure for Service of Process.

Section 145.1200 - Added to define procedure for request for non-binding statements.

Section 145.1400 - Added to define public inspection of records.

Section 145.1401 - Added to define non-public distribution of information.

Section 145.2100 - Added to define business hours of the Securities Department.

Section 145.2101 - Added to define computation of time.

Section 145.2110 - Added to define payment of fees.

Section 145.2120 - Added to define place of filing.

Section 145.2130 - Added to define date of filing.

Section 145.2140 - Added to define requirements as to proper form.

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Section 145.2141 - Added to define additional information.

Section 145.2143 - Added to define information unknown or not reasonably available.

Section 145.2144 - Added to define requirements as to paper, printing and language.

Section 145.2145 - Added to define number of copies -- signatures.

Section 145.2190 - Added to define provisions for granting variances from Rules.

6) Will this proposed rule replace an emergency rule currently in effect:
Yes - 145.50, 145.400, 145.750, 145.1000, 145.1200, 145.2100, 145.2101, 145.2110, 145.2120, 145.2130, 145.2140, 145.2141, 145.2143, 145.2144, 145.2145, 145.2190.

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: To enact the provisions of the Illinois Loan Brokers Act of 1995.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Michael A. Chizmar
Illinois Securities Department
Lincoln Tower, Suite 200
520 South Second Street
Springfield, IL 62701
(217) 524-8040

All comments must be in writing.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Some of the applicants may be small businesses which offer loan brokering to the public.

B) Reporting, bookkeeping or other procedures required for compliance: Unless exempt would have to register; disclosure statement required by Statute; required to maintain files mandated by Statute; required to

post surety bond.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: To enact the Illinois Loan Brokers Act of 1995. The Act creates regulation of Loan Brokers in the State of Illinois.

The full text of the Proposed Rules begins on the next page:

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TITLE 14: COMMERCE

SUBTITLE A: REGULATION OF BUSINESS

CHAPTER I: SECRETARY OF STATE

PART 145

REGULATIONS UNDER THE ILLINOIS LOAN BROKERS ACT OF 1995

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145.2190 Provisions for Granting of Variance from Rules

AUTHORITY: Implementing and authorized by the Illinois Loan Brokers Act of 1995 (815 ILCS 175).

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 629, effective January 1, 1996, for a maximum of 150 days; adopted at 20 Ill. Reg _____, effective _____.

SUBPART A: DEFINITIONS

Section 145.50 Scope of the Law

The Illinois Loan Broker Act of 1995 (815 ILCS 175) shall apply only when the person engaged or sought to be engaged by the loan broker is domiciled in this State or, if a company or business, has its principal place of business in this State.

Section 145.51 Definitions of Terms as Used in the Act and the Rules

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a) As used in this Part, unless the context otherwise requires, the term:

"Act" means the Illinois Loan Brokers Act of 1995 [815 ILCS 175] and this Part.

"Advertising" means any advertisement, or other similar materials or writings or any communication by radio, television, facsimile transmission, electronic transmission, pictures or similar means.

"Affiliate" of, or a person "affiliated" with, a specified person means a person who, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"Applicant" means the person making application for registration.

"Borrower" means any person who has signed a loan broker agreement which provides for such person to be represented by the loan broker and obligating that person to compensate the loan broker under some circumstance.

"Date of filing" means the date that all of the required documents are received by the Securities Department and all the required fees are paid to the Secretary of State. A document shall not be deemed to be filed if any information required by the Act is omitted or the document is illegible.

"Director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Employee" does not include a director, trustee, or officer.

"Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 U.S.C. 227) and the Rules and Regulations thereunder as in effect on July 1, 1989.

"Hearing" means a proceeding conducted by the Securities Department in which the rights, privileges, immunities, duties or obligations of any person or party are required by law to be determined by the Secretary of State only after opportunity for a hearing.

"Interest" as delineated in Section 15-60 of the Act means the rate of interest set forth in 815 ILCS 205.

"Loan Broker" does not mean or include any person authorized to do business under the Residential Mortgage License Act of 1987 or exempt from licensure as provided for in the Residential Mortgage License Act

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of 1987 or any person authorized to do business in Illinois and regulated by the Commissioner of Savings, Real Estate Professionals and Mortgage Finance, also known as the Commissioner of Savings and Residential Finance.

"Material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable person would consider it important.

"Officer" means the president; any vice president in charge of a principal business unit, division or function; the secretary; the treasurer; any principal financial officer, comptroller or principal accounting officer; any other officer performing a principal policy-making function and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Principal" means any officer, director, partner, member, trustee, or manager of such loan broker who is responsible for the supervision and management of the daily business operations in this State of such loan broker.

"Rules" refers to all rules adopted by the Secretary of State pursuant to the Act.

"Secretary of State" means the Securities Department of the Office of the Secretary of State or the Secretary of State or the Securities Director or his or her designee, as the case may be.

"Section" refers to a Section of this Part unless a reference to the Act is specifically made.

b) A Section in this Part which defines a term without express reference to the Act or to this Part or to a portion thereof or hereof defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meaning given them in the Act.

SUBPART B: REGISTRATION OF LOAN BROKERS

Section 145.150 Procedures for Registration as a Loan Broker Under Section 15-15 of the Act

No person shall be registered as a loan broker unless such person submits a completed application as set forth in this Section.

a) Each applicant for registration as a loan broker shall file with the Secretary of State Securities Department a completed and current

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application on IL LB Form 15-10 and pay to the Securities Department all appropriate fees as specified in Section 145.2110 of this Part. The application shall be accompanied by the following:

- 1) A Consent to Service of Process for the applicant on Illinois Form LB15, unless the applicant is a corporation organized or authorized to transact business under the laws of this State;
 - 2) The disclosure statement required under Section 15-30(b) of the Act or Section 15-30(b)(1) of the Act; and
 - 3) Evidence of the bond required in Section 15-15(b) consisting of a certificate from the issuing bonding authority.
- b) Upon the grant of registration of a loan broker, the Securities Department shall issue to the loan broker proof of registration as evidence of such registration;
- c) The application and documents on file with the Securities Department with respect to the loan broker shall be amended whenever a change occurs which renders the information contained therein not accurate in any material respect. Such amendment shall be filed with the Securities Department within ten business days after the occurrence of the change; and
- d) Information submitted in applications for registration or renewal which is personal in nature shall be treated as confidential. In addition, an applicant may request that certain information in its application be kept confidential. The Securities Department shall honor such request if the information is personal in nature or if public access to the information is not reasonably necessary to further the purposes of the Act.

Section 145.151 Procedures for Withdrawal of Pending Application or Termination of Registration as a Loan Broker

Application or Termination of Registration as a Loan Broker If a loan broker elects to withdraw its pending application prior to registration in this State, or if a registered loan broker wishes to terminate its registration in this State, it shall provide written notice to the Securities Department indicating such intent. Any fees paid shall not be returnable in any event.

Section 145.152 Procedure with Respect to Abandoned Incomplete Applications for Registration as a Loan Broker

- a) When an incomplete application for registration as a loan broker has been on file with the Secretary of State for a period of six months, the Secretary of State may, in his or her discretion, proceed in the following manner to determine whether the application for registration has been abandoned by the registrant.
- b) A notice will be sent to the registrant named in the application for registration, by certified mail, return receipt requested, addressed to the most recent address reflected in the application for

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registration. The notice will inform the registrant that the application for registration is incomplete and:

- 1) the deficiencies must be corrected and refiled; or
 - 2) written intent to complete, within a specified period, must be filed to comply with the applicable requirements of the Act; or
 - 3) be withdrawn within 30 days after the date of notice; or
 - 4) an Order of Abandonment shall be entered by the Secretary of State.
- c) Should the registrant fail to respond to such notice by filing the information or document necessary to correct the deficiencies or withdrawing the application for registration, the Secretary of State shall enter an order declaring the application for registration abandoned.
- d) When such an order is entered by the Secretary of State:
- 1) the filing, examination, and registration fees paid upon the filing of the application for registration will not be returned; and
 - 2) the records of the Secretary of State will be marked to indicate that the application for registration was abandoned and the date of the order.
- e) The applicant may request an administrative hearing in writing within 15 days after receipt of the Order of Abandonment. A request for hearing shall set forth the grounds upon which the applicant petitions for a hearing.

Section 145.200 Procedures for Renewal of Registration as a Loan Broker Under Section 15-20 of the Act

- a) If a registered loan broker wishes to renew its registration, it shall file with the Securities Department a completed and current IL LB Form 15-10 together with the renewal application filing fee, examination fee as specified in Section 145.2110 of this Part.
- b) Any amendment(s) shall also be filed with the Securities Department within ten business days if any material changes occur in the information that was filed with the Securities Department when the loan broker applied for registration.
- c) Any application for renewal of registration of a loan broker filed with or fees paid to the Securities Department within 29 days or less prior to the date upon which the registration or renewal would expire shall pay an additional fee set forth in Section 145.2110 of this Part.
- d) Upon receipt of the renewal fees the Securities Department shall issue the loan broker proof of renewal as evidence of such registration.

Section 145.300 When Disclosure Statement Must Be Provided

- a) Except as provided in Section 145.803 of this Part, a loan broker shall provide a disclosure statement consistent in all material

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respects with this Section to any borrower at least seven days before the earlier of:

- 1) The time such borrower signs a contract for the services of the loan broker; or
- 2) The time the loan broker receives any consideration upon the contract.
- b) As used in this Part and in the Act, the term "borrower" does not include a person who is under no obligation to compensate the loan broker under any circumstances.
- c) The Secretary of State recommends that loan brokers have each borrower sign and date an acknowledgment of receipt when the disclosure statement is provided.

Section 145.301 Purpose of Disclosure; Substantial Compliance

- a) The Secretary of State has determined that the disclosure statement and waiting period requirements of the Act should be interpreted and enforced so as to further the objective of the Act. That objective is to ensure that borrowers of loan brokers have full disclosure of the material terms in the loan broker's contract with the borrower, have an opportunity to review those terms and, at the borrower's request, have an attorney review the contract.
- b) Where a loan broker has reasonably tried to comply with the provisions of this Part, such broker shall be deemed to have complied with Section 15-30 of the Act if the borrower client has been provided with all material information required by this Part and has had a full opportunity to review and consider the information, to review the loan broker's contract, and to have the loan broker's contract reviewed by an attorney.
- c) The Secretary of State recommends that loan brokers have each borrower sign and date an acknowledgment of receipt when the disclosure statement is provided.

Section 145.302 Contents of Disclosure Document

A written disclosure document that meets all of the requirements set forth in Section 15-30(b) of the Act, except that it omits the information required by Sections 15-30(b)(5) and (6), will be deemed to meet the requirements set forth in Section 15-30(b) of the Act if:

- a) the disclosure document contains a statement to the effect that the loan broker's contract accompanying the disclosure document contains information about the services the loan broker will perform and the circumstances under which the broker will be entitled to keep or receive a fee; and
- b) the loan broker provides the borrower with a copy of the contract containing the information required by Sections 15-30(b)(5) and (6) of the Act when the loan broker provides the disclosure document to the borrower.

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Section 145.304 Providing the Contract to Borrower

The borrower shall have the right to retain a copy of the signed contract for the services of a loan broker. The borrower's copy of the contract shall be provided to the borrower when the contract is signed, if feasible and the borrower so requests. Otherwise, the contract shall be mailed or otherwise sent to the borrower within one week after the signing. No account number is required on the borrower's copy of the contract.

SUBPART C: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section 145.400 Hearings

Any hearing required pursuant to the Act or by this Part shall be held pursuant to 14 Ill. Adm. Code 130, Subpart K: Procedures For Administrative Hearings.

SUBPART D: RECORDS

Section 145.750 Records Required of Loan Brokers

- a) Each loan broker agreement shall be given a unique identifying account number and all instruments taken in connection with that agreement must bear this number. Every loan broker registered by the Secretary of State shall keep and maintain for a period of six years from the date of the client agreement in the loan broker's principal office in this State the following records:
 - 1) A loan broker agreement register that consists of a chronological listing of all loan broker agreements that have been entered into. For each loan broker agreement the register shall contain the following:
 - A) The account number;
 - B) The date of the agreement;
 - C) The name of the borrower;
 - D) The amount of fees charged, if any; and
 - E) The cost and type of insurance required, if any.
 - 2) A file for each borrower shall contain the following:
 - A) The name, address, and telephone number of the borrower, as defined in Section 145.51 of this Part;
 - B) A copy of the signed loan broker agreement;
 - C) A copy of any other papers or instruments used in connection with the loan broker agreement that are signed by the borrower, including a copy of the disclosure document required by Section 15-30 of the Act that contains an acknowledged receipt by the borrower;
 - D) If a loan was obtained for the borrower, the name, address, and telephone number of the creditor;
 - E) If a loan is accepted by the borrower, a copy of the signed loan agreement; and

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F) The amount of the loan broker's fee that the borrower has paid. If there is an unpaid balance, the status of any collection efforts.

3) All receipts from or for the account of borrowers and all disbursements to or for the account of borrowers, recorded so that the transactions are readily identifiable.

4) A general ledger that shall be posted at least monthly, and a trial balance sheet and profit and loss statement prepared within 30 days after the Secretary of State's request for information.

5) A copy of the following:

- A) All advertisements, pamphlets, circulars, letters, articles or communications used to solicit borrowers that were published in any newspaper, magazine or periodical;
- B) Scripts of any recording or radio or television announcement used or to be used to solicit borrowers; and
- C) Any sales kit or literature used or to be used to solicit borrowers.

b) After a record or other documents have been preserved for two years, an accurate copy on any form of information retrieval device may be substituted therefor for the balance of the required time.

c) All records required to be maintained under this Section or the Act must be separate or readily identifiable from the records of any other business that is conducted in the office of the loan broker. A written request for a waiver of the provisions of this Section may be made to the Secretary of State to permit any registered loan broker to maintain any of the records required by this Section or the Act, outside the State of Illinois. In determining whether the provisions of this Section should be waived, the Secretary of State shall consider, without limitation, whether the main office of the loan broker is outside the State of Illinois or whether the loan broker uses all or some of the bookkeeping facilities of some other loan broker whose main office is outside the State of Illinois.

SUBPART E: EXEMPTIONS

Section 140.802 Franchises

Persons registered pursuant to the Illinois Franchise Disclosure Act of 1987 [815 ILCS 705] (and their employees) are exempt from the requirements of the Act as to: offers and sales in connection with such franchising activities; or assisting any of their franchisees in the offer or sale of a franchise by any such franchisee for its own account, regardless of whether the sale is effected by or through such registered person.

Section 145.803 Exemptions from Waiting Period and Disclosure Requirements Pursuant to Section 15-30 of the Act

The requirements that a loan broker provide a written disclosure statement and

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wait at least seven days before the client signs a contract with the loan broker or before the loan broker receives any consideration upon the contract shall not apply if:

a) The client to be represented by the loan broker is or has had:

1) A natural person who has, or is reasonably believed by the loan broker relying upon this Section to have, a net worth or joint net worth with that person's spouse in excess of \$1,000,000 at the time of the execution of the loan broker agreement; or

2) A natural person who has, or is reasonably believed by the loan broker relying upon this Section to have, an income or joint income with that person's spouse in excess of \$200,000 in the most recent fiscal year; or

3) A company or business that has, or is reasonably believed by the loan broker relying upon this Section to have, a net asset value in excess of \$1,000,000 and has been in existence for at least nine months and was not formed for the purposes of this transaction; or

4) A company or business that has, or is reasonably believed by the loan broker relying upon this Section to have, gross revenue sales in excess of \$1,000,000 in the most recent fiscal year and has been in existence for at least nine months and was not formed for the purposes of this transaction; or

5) A company or business in which at least 90% of the equity interest is owned, or is reasonably believed by the loan broker relying upon this Section to be owned, by persons who meet any of the tests set forth in subsection (a)(1), (2), (3) or (4) of this Section.

b) An attorney reviewed the loan broker's contract.

c) A loan broker shall be entitled to rely upon a statement signed by the client or prospective client that:

- 1) the client is in one of the categories enumerated in subsections (a)(1) through (a)(5) or (b) of this Section; or
- 2) the client had an attorney review the business broker's contract with the client.

Section 145.806 Exemption for Business Broker Agreements

A business broker agreement, made pursuant to and in compliance with the Illinois Business Brokers Act of 1995 [815 ILCS 175] between a client and a registered business broker, which contains a promise by, or obligation of, a business broker to procure or assist in procuring a loan for business financing or the purchase of a business for the client is exempt from this Act.

SUBPART F: SERVICE OF PROCESS

Section 145.1000 Service of Process upon the Secretary of State

a) Any process, notice or demand to be served upon the Secretary of State

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under the Act shall be made by delivering personally to the Securities Director, or any employee of the Securities Department designated by the Securities Director to accept such service on behalf of the Secretary of State, or by sending by registered mail or certified mail, return receipt requested, a copy of the process, notice or demand to the Securities Department. Procedures for service are specified in the Act in the following Sections:

- 1) Service upon any person who has filed a consent to service of process upon the Secretary of State;
- 2) Service upon any person who, by virtue of acting as a loan broker in this State which is neither registered nor covered by an exemption from registration, shall have appointed the Secretary of State as agent for service of process; and
- 3) Service of a copy of a complaint in a private civil action.
- b) Service of any process, notice or demand under this Section shall be made with the Springfield office of the Securities Department during regular business hours as specified in Section 145.2100 of this Part.
- c) At the time of any service upon the Secretary of State there shall be paid a fee in the amount specified in Section 145.2110 of this Part, which shall not be returnable in any event. Each process, notice or demand shall be submitted with a separate payment.
- d) The Securities Department shall keep a record which shall show the date of service of all the processes, notices and demands received.

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section 145.1200 Request for Non-Binding Statements

a) Required information and format.

- 1) All requests for non-binding statements shall be in writing and be accompanied by the fee set forth in Section 145.2110 of this Part. The request shall be filed with the Securities Department and shall contain the following:

- A) A brief summary of the Sections of the Act and of the Rules to which the request pertains;
- B) A detailed factual representation concerning every relevant aspect of the proposed transaction, such as names of affected parties, details regarding the transactions, each claim of exemption, if any, and reasoning in support of each such claim. Requests should be limited to the particular situation, and should not attempt to include every possible type of situation which may arise in the future;
- C) A discussion of current statutes, rules and legal principles relevant to the facts set forth;
- D) A statement setting forth the person's own opinion in the matter and the basis for such opinion; and
- E) A representation that the transaction in question has not been commenced and will not commence for at least 30 days.

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- 2) The Securities Department will not respond to requests for non-binding statements involving the anti-fraud provisions of the Act or the Rules.
- 3) The Securities Department will not respond to requests for non-binding statements with respect to transactions which have already taken place.
- 4) The Securities Department will not respond to requests based upon hypothetical facts or involving unnamed parties.
- b) Review procedure. After a review of the relevant facts presented, in light of existing judicial, legislative and administrative history, the Securities Department may issue its finding as to the applicability of the Act to the situation presented in the form of a non-binding statement stating that it will recommend that no enforcement action be initiated against the parties involved if all the facts are true and complete. Facts or conditions different than those presented may require different conclusions and persons other than those requesting the statement should not rely on the statement.
- c) Availability of non-binding statements issued by the Department.
 - 1) The Securities Department will maintain a chronological index by statutory section(s) involving all non-binding statements issued.
 - 2) Copies of such statements may be reviewed in the Securities Department's Springfield office and copies thereof may be obtained upon payment of the cost of duplication as set forth in Section 145.2110 of this Part.

SUBPART H: PUBLIC INFORMATION

Section 145.1400 Inspection of Loan Broker Records

Records of all registered loan brokers are available for public inspection during the business hours at the Springfield office of the Securities Department of the Secretary of State upon written request.

Section 145.1401 Non-Public Distribution of Information

Information or documents obtained by employees of the Secretary of State in the course of any examination or investigation pursuant to Section 15-45 of the Act shall, unless made a matter of public record, be deemed confidential. Employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Secretary of State available to anyone other than an employee of the Secretary of State, or other governmental agency, unless the Secretary of State authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest.

SUBPART I: RULES OF GENERAL APPLICATION

Section 145.2100 Business Hours of the Securities Department

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- a) The principal office of the Securities Department at Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.
- b) An office of the Securities Department at 17 North State Street, Suite 1100, Chicago, Illinois 60601 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

Section 145.2101 Computation of Time

The time within which an act under the Illinois Loan Broker Act of 1995, [815 ILCS 175] shall be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or holiday as defined or fixed in any Statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

Section 145.2110 Payment of Fees

- a) Fees under the Act are as follows:

Section 15-15	
Application Filing Fee	\$300
Examination Fee	\$50
Registration Fee	\$10

Section 15-20

Renewal Application Filing Fee	\$300
Examination Fee	\$50
Renewal Late Fee	\$10*

Loan Broker Fee to report a change in its form of organization or change of its name

\$20

Service of Process (when served upon the Secretary of State)

\$10

Section 15-50

Certificate	\$10
Certified Copy of Document	\$10 plus
Each Page Certified	\$.50

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Non-Binding Statement	\$75
Duplication of Documents Each Page Duplicated	\$.50
Additional fee for payment of fee returned to the Securities Department due to insufficient funds or for a similar reason	\$50

*If the renewal application is filed within 29 days preceding the expiration of the current registration.

- b) All payments of fees, except for payment of administrative fines under the Act, as set forth below, shall be made by check, money order, certified check, bank cashier's check, or indicia of forms of electronic transfer of funds payable to the "Secretary of State". No third party check or money order endorsed over to the Secretary of State shall be accepted as payment of any fee. All payments for administrative fines, except for a person registered under Section 15-15 or 15-20 of the Act shall be made by money order, certified check or bank cashier's check.
- c) Any person whose payment of fees is returned to the Securities Department due to insufficient funds or for a similar reason shall pay to the Secretary of State the amount of fee owed plus an additional fee as set forth in this Section for each payment returned. This fee shall include the fee required by 5 ILCS 290/10.
- d) The Secretary of State shall require any person to make payment of fees in the form of a money order, certified check or bank money order if any previous payment of fees has been returned to the Securities Department due to insufficient funds or for a similar reason.
- e) All payment of fees under the Act shall be deemed to be filed and the fees paid upon receipt by the Securities Department, provided that the fee paid is not less or more than five dollars of the amount due.

Section 145.2120 Place of Filing

All applications for registration or exemption from registration and other papers filed with the Securities Department or the Secretary of State pursuant to the Act shall be filed at Springfield, Illinois. Such material may be filed by delivery to the Securities Department, through the mail or otherwise.

Section 145.2130 Date of Filing

- a) The date of filing of any document required to be filed with the Securities Department shall be the date of delivery of the document and any required fee to the Securities Department in Springfield, Illinois, as specified in Section 145.2120 of this Part, or if a

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document or fee is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the document or fee was mailed on the date shown on the record.

- b) A document may not be deemed to be filed with the Secretary of State unless all requirements of the Act with respect to such filing have been complied with and the required fee has been paid.

Section 145.2140 Requirements as to Proper Form

Any document filed with the Securities Department pursuant to the Act shall be prepared in accordance with the form, if any, prescribed by the Securities Department. Any such document shall be deemed to be filed on the proper form unless objection to the form is made by the Securities Department.

Section 145.2141 Additional Information

In addition to the information expressly required to be included in an application for registration, the applicant shall include other material information, which may be necessary to make the required statements truthful.

Section 145.2143 Information Unknown or Not Reasonably Available

Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the applicant or registrant, either due to unreasonable effort or expense, or because it rests within the knowledge of another person not affiliated with the applicant or registrant, the information may be omitted, subject to the following conditions:

- a) The applicant or registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.
- b) The applicant or registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

Section 145.2144 Requirements as to Paper, Printing, and Language

- a) Application for registration shall be filed on good quality, unglazed, white paper, 8 1/2 by 11 inches in size, insofar as practicable.
- b) The application for registration, and all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the application or any portion thereof may be prepared by any similar process which, in the opinion of the Secretary of State, produces copies suitable for permanent record. All copies

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of the material shall be clear, easily readable and suitable for repeated photocopying.

- c) The application for registration shall be in the English language. If any exhibit or other paper or document filed with the application for registration is in a foreign language, it shall be accompanied by a translation into the English language.

Section 145.2145 Number of Copies--Signatures

- a) One copy of the completed application for registration, manually signed by the applicant, including exhibits and all other papers, if any, and documents filed as a part of the application, shall be filed with the Securities Department.

- b) If any name is signed to the application for registration pursuant to a power of attorney, a copy of the power of attorney shall be filed with the application for registration. In addition, if the name of any officer signing on behalf of the applicant, or attesting to the applicant's seal, is signed pursuant to a power of attorney, a copy of a resolution of the applicant's board of directors authorizing the signature shall be filed with the application for registration.

Section 145.2190 Provisions for Granting of Variance from Rules

The Secretary of State or his or her designee may grant variances from this Part in individual cases where he or she determines that:

- a) the provisions from which the variance is granted is not statutorily mandated;
- b) no party will be injured by granting the variance; and
- c) the Section from which the variance is granted would, in the particular case, be unnecessarily burdensome.

DEPARTMENT OF EMPLOYMENT SECURITY

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Payment Of Unemployment Contributions, Interest And Penalties

2) Code Citation: 56 Ill. Adm. Code 2765

3) Section Numbers: Adopted Action:

2765.73 New Section

4) Statutory Authority: 820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600.

5) Effective Date of the Amendment: February 29, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this Rule contain an incorporation by reference? Yes

8) Date filed in Agency's Principal Office: February 29, 1996.

9) Notice of Proposal published in Illinois Register: December 1, 1995 at 19 Ill. Reg. 15879.

10) Has JCAR issued a Statement of Objection to these Rules? No.

11) Difference between proposal and final version: In line 125, changed "paragraph" to "Section (a)". In line 140, changed "subsection" to "subsection".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will this replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and purpose of the rules: Nonprofit hospitals which have sustained large operating losses over the past few years cannot remain open and provide vital services to the communities that they serve without some relief from creditors and the opportunity to obtain needed refinancing. This amendment to Part 2765 provides for a waiver of interest when such hospitals enter into deferred payment agreements to remove delinquencies which accrued during those years of operating losses.

16) Information and Questions regarding these Adopted Amendments may be addressed to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
401 South State Street - 2 South
Chicago, Illinois 60605
312/793-4240

The full text of the Adopted Amendment(s) begin on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2765

PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

SUBPART A: GENERAL PROVISIONS

Section	
2765.1	Unemployment Contributions Not Deductible From Wages
2765.5	Definitions
2765.10	Payment Of Contributions
2765.15	Liability For The Entire Year
2765.18	Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller Or Transferor
2765.20	Contributions Of Employers By Election
2765.25	Payments In Lieu Of Contributions
2765.30	When Payments In Lieu Of Contributions Payable
2765.35	Payments When Reimbursable Employer Becomes Contributory
2765.40	Payments When Contributory Employer Becomes Reimbursable
2765.44	Fee For Not Sufficient Funds (NSF) Checks
2765.45	Application Of Payment
2765.50	Accrual Of Interest
2765.55	Imposition Of Penalty
2765.60	Payment Or Filing By Mail
2765.63	When Payment Due And Consequences Of Upward Revision In Employer's Contribution Rate
2765.64	Consequences Where An Employee Leasing Company Has Erroneously Reported Wages And Paid Contributions Which Wages Should Have Been Reported And Contributions Paid By Its Client
2765.65	Waiver Of Interest Or Penalty
2765.66	Waiver Of Interest Accruing Because Of Certain Types Of Employees For Periods Prior To January 1, 1988
2765.67	Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages To The Wrong State
2765.68	Waiver Of Penalty For Certain Employers For 1987 And Thereafter Wage Reports (UC-3,40)
2765.69	Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois Unemployment Insurance Contributions
2765.70	Waiver Of Interest For Certain Nonprofit Organizations or Local Governmental Entities
2765.71	Waiver Of Interest Accruing Due To A Delay In The Issuance Of A Decision On A Protested Determination And Assessment
2765.73	Waiver Of Interest For Certain Nonprofit Hospitals
2765.74	Time For Paying Or Filing Delayed Payment Or Report

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Application For Waiver
Approval Of Application For Waiver
Insufficient Or Incomplete Application
Disapproval Of Application Conclusive
Appeal And Hearing

SUBPART B: EXPERIENCE RATING

Section	
2765.200	Effect Of A Successor Employing Unit's Failure To Notify The Director Of Its Succession
2765.210	Prohibition On Withdrawal Of Joint Application For Partial Transfer Of Experience Rating Record
2765.225	Requirement For Privy In Order To Have A Predecessor Successor Relationship
2765.228	No Requirement For Continuous Operation In Order For A Predecessor Successor Relationship To Exist
2765.230	Effect Of A Transfer Of Physical Assets On A Finding That A Predecessor Successor Relationship Exists
SUBPART C: BENEFIT CHARGES	
Section	
2765.325	Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
2765.326	Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
2765.328	What Constitutes A Day For Purposes Of The "30 Day" Requirement In Section 1502.1 Of The Act
2765.329	Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act For Benefit Years Beginning On Or After January 1, 1993
2765.330	Chargeability Where The Individual Is Discharged As A Result Of His Incarceration
2765.332	Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 Of The Act
2765.333	Effect Of Ineligibility Under Section 612 On Chargeability Under Section 1502.1 Of The Act
2765.334	Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act
2765.335	Procedural Requirements And Right Of Appeal

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, and 2600].

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SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 185, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 28, 1992; amended at 17 Ill. Reg. 614, effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 27, 1994; emergency amendment at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 2, 1996.

SUBPART A: GENERAL PROVISIONS

Section 2765.73 Waiver Of Interest For Certain Nonprofit Hospitals

- a) Upon application of an employer, the Director shall grant a conditional waiver of any interest owed by the employer with respect to contributions due for quarters specified in the conditional waiver, where the employer is a nonprofit organization, as that term is used in Section 211.2 of the Act [820 ILCS 405/211.2], operating as a hospital and the following conditions are met:
 - 1) the employer has experienced a year-end loss of more than \$1,000,000 in each of at least three of the employer's fiscal years during the period in which the interest has accrued; and
 - 2) the losses described in subsection (a)(1) are established by certified, audited statements of the financial condition of the employer.
- b) The Director shall waive interest covered by a conditional waiver granted under subsection (a) upon payment, within four years after the date on which the conditional waiver is granted, of the full amount of all contributions due for the quarters specified in the conditional waiver.
- c) A conditional waiver granted under subsection (a) shall be revoked by the Director where payment of the contributions due for the quarters specified in the conditional waiver is to be made pursuant to a deferred payment agreement and the employer commits a substantial

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NOTICE OF ADOPTED AMENDMENT(S)

breach of that agreement or where the employer fails to timely pay contributions due for quarters not specified in the conditional waiver.

- d) Notwithstanding subsection (a), the Director shall not grant more than one conditional waiver of interest with respect to contributions due for the same quarter.

(Source: Added at 20 Ill. Reg. 4307, effective February 2, 1996)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of Part: Life Insurance Solicitation

2) Code Citation: 50 Ill. Adm. Code 930

3) Section Number: Adopted Action:

930.Exhibit A

Amended

4) Statutory Authority: Implementing Article XXVI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/421 and 401].

5) Effective Date of Amendment: March 4, 1996

6) Does this Amendment contain an automatic repeal date? No

7) Does this Amendment contain incorporations by reference? No

8) Date filed in Agency's Principal Office: March 4, 1996

9) Notice of Proposal Published in Illinois Register: October 27, 1995, 19 Ill. Reg. 14920

10) Has JCAR issued a Statement of Objections to this Amendment? No

11) Difference(s) between proposal and final version:

- a) In the Main Authority note, add "et seq." following "[215 ILCS 5/421".
- b) Section 930.Exhibit A, on the third line, strike "." and add ",".
- c) Section 930.Exhibit A, on the fourth line change "is cost" to "Is Cost".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No. Please refer to number 11(a) above.

13) Will this Amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: The Department is amending Section 930.Exhibit A, to delete Item 7. Item 7 of Section 930.Exhibit A is obsolete. The Department does not collect cost index data for summarization nor does it provide such information to public libraries.

16) Information and questions regarding this adopted Amendment shall be directed to:

DEPARTMENT OF INSURANCE

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Tina Nieslawski
Department of Insurance
320 West Washington
Springfield, IL 62767-0001
(217) 782-8638

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
 CHAPTER I: DEPARTMENT OF INSURANCE
 SUBCHAPTER 11: INSURANCE PRODUCERS, LIMITED INSURANCE
 REPRESENTATIVES AND REGISTERED FIRMS

PART 930
 LIFE INSURANCE SOLICITATION

Section	
930.10	Authority
930.20	Purpose
930.30	Scope
930.40	Definitions
930.50	Disclosure Requirements
930.60	Preneed Funeral Contracts or Prearrangements
930.70	General Rules (Renumbered)
930.80	Life Insurance Buyer's Guide, Language and Content (Renumbered)
930.90	Failure to Comply (Renumbered)
EXHIBIT A	Life Insurance Buyer's Guide
AUTHORITY: Implementing Article XXVI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XXVI and 401 and 421 et seq.].	

SOURCE: Adopted at 4 Ill. Reg. 15, p. 177, effective July 1, 1980; codified at 7 Ill. Reg. 2364; amended at 14 Ill. Reg. 13594, effective August 14, 1990; amended at 15 Ill. Reg. 18162, effective December 9, 1991; amended at 20 Ill. Reg. 4313, effective

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Section 930. EXHIBIT A Life Insurance Buyer's Guide
 (The face page of the Buyer's Guide shall read as follows)

LIFE INSURANCE BUYER'S GUIDE

This guide can show you how to save money when you shop for life insurance. It helps you to:

- Decide how much life insurance you should buy.
- Decide what kind of life insurance policy you need, and
- Compare the relative cost of similar life insurance policies.

This guide has been prepared by the Illinois Department of Insurance, in part using materials developed by National Association of Insurance Commissioners.

(The following language shall appear at the bottom of page 2)

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various State Insurance Departments to coordinate insurance laws for the benefit of all consumers. You are urged to use this Guide in making a life insurance purchase.

THIS GUIDE DOES NOT ENDORSE ANY COMPANY OR POLICY

(The remaining text of the Buyer's Guide shall begin on page 3 as follows)

Buying Life Insurance

When you buy life insurance, you want a policy which fits your needs without costing too much. Your first step is to decide how much you need, how much you can afford to pay and the kind of policy you want. Then, find out what various companies charge for that kind of policy. You can find important differences in the cost of life insurance by using the life insurance cost indexes which are described in this guide. A good life insurance agent or company will be able and willing to help you with each of these shopping steps.

If you are going to make a good choice when you buy life insurance, you need to understand which kinds are available. If one kind does not seem to fit your needs, ask about the other kinds which are described in this guide. If you feel that you need more information than is given here, you may want to check with a life insurance agent or company or books on life insurance in your public library. Life insurance can be bought either on an individual basis or on a group basis. Group insurance may be inexpensive when compared to individual insurance. It is important to remember that insurance purchased on this basis is usually term insurance, and hence will not develop cash values, and is dependent on your continued membership in the group or employment. Also, the amount of insurance that is available for purchase is usually

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limited.

Choosing the Amount

One way to decide how much life insurance you need is to figure how much cash and income your dependents would need if you were to die. Life insurance can provide cash for last expenses, and income for you family's future living expenses.

Your insurance should come as close as you can afford to make up the difference between (1) what your dependents would have if you were to die now, and (2) what they would actually need at some time in the future when needs change.

Choosing the Right Kind

All life insurance policies agree to pay an amount of money if you die. But all policies are not the same. There are three basic kinds of life insurance.

1. Term insurance
2. Whole life insurance
3. Endowment insurance

The kind of life insurance you purchase is dependent on the need you are trying to satisfy. Some needs are temporary, i.e. do not exist throughout your life, while other needs are permanent. As an example, the need to finance your children's education is a temporary need. The need to meet mortgage payments is also a temporary need since it exists only while the mortgage exists. On the other hand, the financial needs of your family after your death is a permanent need.

Remember, no matter how fancy the policy title or sales presentation might appear, all life insurance policies contain one or more of the three basic kinds. If you are confused about a policy that sounds complicated, ask the agent or company if it combines more than one kind of life insurance. The following is a brief description of the three basic kinds:

Term Insurance

Term insurance is death protection for a "term" of one or more years. Death benefits will be paid only if you die within that term of years. Term insurance generally provides the largest immediate death protection for your premium dollar.

Some term insurance policies are "renewable" for one or more additional terms even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. You should check the premiums at older ages and

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the length of time the policy can be continued.

Some term insurance policies are also "convertible." This means that before the end of the conversion period, you may trade the term policy for a whole life or endowment insurance policy even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Whole Life Insurance

Whole life insurance gives death protection for as long as you live. The most common type is called "straight life" or "ordinary life" insurance, for which you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term insurance policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Although you pay higher premiums, to begin with, for whole life insurance than for term insurance, whole life insurance policies develop "cash values" which you may have if you stop paying premiums. You can generally either take the cash, or use it to buy some continuing insurance protection. Technically speaking, these values are called "nonforfeiture benefits." This refers to benefits you do not lose (or "forfeit") when you stop paying premiums. The amount of these benefits depends on the kind of policy you have, its size, and how long you have owned it.

A policy with cash values may also be used as collateral for a loan. If you borrow from the life insurance company, the rate of interest is shown in your policy. Any money which you owe on a policy loan would be deducted from the benefits if you were to die, or from the cash value if you were to stop paying premiums.

Endowment Insurance

An endowment insurance policy pays a sum or income to you - the policyholder - if you live to a certain age. If you were to die before then, the death benefit would be paid to your beneficiary. Premiums and cash values for endowment insurance are higher than for the same amount of whole life insurance. Thus endowment insurance gives you the least amount of death protection for your premium dollar.

Finding a Low Cost Policy

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After you have decided which kind of life insurance fits your needs, look for a good buy. YOUR CHANCES OF FINDING A GOOD BUY ARE BETTER IF YOU USE TWO TYPES OF INDEX NUMBERS THAT HAVE BEEN DEVELOPED TO AID IN SHOPPING FOR LIFE INSURANCE. One is called the "Surrender Cost Index" and the other is the "Net Payment Cost Index." It will be worth your time to try to understand how these indexes are used, but in any event, use them ONLY for comparing the relative costs of similar policies. LOOK FOR POLICIES WITH LOW COST INDEX NUMBERS.

What Is Cost ~~is-cost~~?

"Cost" is the difference between what you pay and what you get back. If you pay a premium for life insurance and get nothing back, your cost for the death protection is the premium. If you pay a premium and get something back later on, such as a cash value, your cost is smaller than the premium. The cost of some policies can also be reduced by dividends; these are called "participating" policies. Companies may tell you what their current dividends are, but the size of future dividends is unknown today and cannot be guaranteed. Dividends actually paid are set each year by the company.

Some policies do not pay dividends. These are called "guaranteed cost" or "non-participating" policies. Every feature of a guaranteed cost policy is fixed so that you know in advance what your future cost will be.

The premiums and cash values of a participating policy are guaranteed, but the dividends are not. Premiums for participating policies are typically higher than for guaranteed cost policies, but the cost to you may be higher or lower, depending on the dividends actually paid.

What Are Cost Indexes?

In order to compare the cost of policies, you need to look at:

1. Premiums
2. Cash Values
3. Dividends

Cost indexes use one or more of these factors to give you a convenient way to compare relative costs of similar policies. When you compare costs, an adjustment must be made to take into account that money is paid and received at different times. It is not enough to just add up the premiums you will pay and to subtract the cash values and dividends you expect to get back. These indexes take care of the arithmetic for you. Instead of having to add, subtract, multiply and divide many numbers yourself, you just compare the index numbers which you can get from life insurance agents and companies:

1. Life Insurance Surrender Cost Index. This index is useful if you

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consider the level of the cash values to be of primary importance to you. It helps you compare costs if at some future point in time, such as 10 or 20 years, you were to surrender the policy and take its cash value.

2. Life Insurance Net Payment Cost Index. This index is useful if your main concern is the benefits that are to be paid at your death and if the level of cash values is of secondary importance to you. It helps you compare costs at some future point in time, such as 10 or 20 years, if you continue paying premiums on your policy and do not take its cash value.

There is another number called the Equivalent Level Annual Dividend. It shows the part dividends play in determining the cost index of a participating policy. Adding a policy's Equivalent Level Annual Dividend to its cost index allows you to compare total costs of similar policies before deducting dividends. However, if you make any cost comparisons of a participating policy with a non-participating policy, remember that the total cost of the participating policy will be reduced by dividends, but the cost of the non-participating policy will not change.

How Do I Use Cost Indexes?

The most important thing to remember when using cost indexes is that a policy with a small index number is generally a better buy than a comparable policy with a larger index number. The following rules are also important:

- (1) Cost comparisons should only be made between similar plans of life insurance. Similar plans are those which provide essentially the same basic benefits and require premium payments for approximately the same period of time. The closer policies are to being identical, the more reliable the cost comparison will be.
- (2) Compare index numbers only for the kind of policy, for your age and for the amount you intend to buy. Since no one company offers the lowest cost for all types of insurance at all ages and for all amounts of insurance, it is important that you get the indexes for the actual policy, age and amount which you intend to buy. Just because a "Shopper's Guide" tells you that one company's policy is a good buy for a particular age and amount, you should not assume that all of that company's policies are equally good buys.
- (3) Small differences in index numbers could be offset by other policy features, or differences in the quality of service you may expect from the company or its agent. Therefore, when you find small differences in cost indexes, your choice should be based on

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something other than cost.

- (4) In any event, you will need other information on which to base your purchase decision. BE SURE YOU CAN AFFORD THE PREMIUMS, AND THAT YOU UNDERSTAND ITS ASH VALUES, DIVIDENDS AND DEATH BENEFITS. You should also make a judgement on how well the life insurance company or agent will provide service in the future, to you as a policyholder.

- (5) These life insurance cost indexes apply to new policies and should not be used to determine whether you should drop a policy you have already owned for awhile, in favor of a new one. If such a replacement is suggested, you should ask for information from the company which issued the old policy before you take action.

- (6) An important fact to note is the difference in premium payments paid during one year's time based on an annual premium versus the annualized periodic premium. For example, if you choose to pay premiums on a monthly basis, the annualized periodic premium would be twelve (12) times the monthly premium. There may be a significant difference between the annualized periodic premium and the annual premium and it should be considered when deciding on a payment schedule.

- (7) In order to assist you in comparing cost indexes for similar policies from many life insurance companies, the Illinois Insurance Department will collect cost index data for a variety of different types of policies, issue ages and face amounts. This information will be summarized and displayed in a yardstick format. This information along with explanatory information will be available at your local public library starting July 1, 1989. Periodic updates will be made in order to keep the yardsticks as current as possible.

Important Things to Remember - A Summary

The first decision you must make when buying a life insurance policy is choosing a policy whose benefits and premiums most closely meet your needs and ability to pay. Next, find a policy which is also a relatively good buy. If you compare Surrender Cost Indexes and Net Payment Cost Indexes of similar competing policies, your chances of finding a relatively good buy will be better than if you do not shop. REMEMBER, LOOK FOR POLICIES WITH LOWER COST INDEX NUMBERS. A good life insurance agent can help you to choose the amount of life insurance and kind of policy you want and will give you cost indexes so that you can make cost comparisons of similar policies. DON'T BUY LIFE INSURANCE UNLESS YOU INTEND TO STICK WITH IT. A policy which is a good buy when held for 20 years can be very costly if you quit during the early years of

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the policy. If you surrender such a policy during the first few years, you may get little or nothing back and much of your premium may have been used for company expenses.

Read your new policy carefully, and ask the agent or company for an explanation of anything you do not understand. Whatever you decide now, it is important to review your life insurance program every few years to keep up with changes in your income and responsibilities.

(Source: Amended at 20 Ill. Reg. 4313, effective 1-1-80)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Clinical Social Work and Social Work Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1470
- 3) Section Numbers: Adopted Action:
1470.95 Amendment
1470.96 New Section
- 4) Statutory Authority: The Clinical Social Work and Social Work Practice Act (225 ILCS 20)
- 5) Effective Date of Amendments: February 28, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? Yes, the Codes of Conduct of the National Association of Social Workers and the National Federation of Societies for Clinical Social Work are incorporated by reference in Section 1470.96(b).
- 8) Date Filed in Agency's Principal Office: February 27, 1996
- 9) Date Notice of Proposal Published in Illinois Register: December 1, 1995, at 19 Ill. Reg. 16015
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Difference(s) between proposal and final version: No substantive changes were made to the proposed version.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking adds a new Section titled "Unethical, Unauthorized and Unprofessional Conduct" and amends the Continuing Education (CE) Section to allow credit for completion of self-study courses. Section 19 of the Act authorizes the Department of Professional Regulation to suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based on its finding of "unethical, unauthorized, or unprofessional conduct." The proposed new Section interprets what constitutes such conduct. It also incorporates by reference the codes of ethics of the National Association of Social

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NOTICE OF ADOPTED AMENDMENT(S)

- Workers and the National Federation of Societies for Clinical Social Work.
- 16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0800 Fax #: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1470

CLINICAL SOCIAL WORK AND SOCIAL WORK PRACTICE ACT

Section

- 1470.5 Grandfather Provisions (Repealed)
 1470.7 Temporary License (Repealed)
 1470.10 Applications
 1470.20 Professional Experience
 1470.30 Approved Colleges, Universities, and Graduate Schools of Social Work Programs
 1470.40 Employer's Affidavit (Repealed)
 1470.50 Admission to Examination (Repealed)
 1470.60 Endorsement
 1470.70 Examinations
 1470.80 Restoration
 1470.90 Renewals
 1470.95 Continuing Education
 1470.96 Unethical, Unauthorized and Unprofessional Conduct
 1470.100 Granting Variances

AUTHORITY: Implementing the Clinical Social Work and Social Work Practice Act [225 ILCS 20] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules for the Administration of the Social Workers Registration Act, effective November 18, 1971; amendment effective September 25, 1975; amended at 5 Ill. Reg. 946, effective January 15, 1981; codified at 5 Ill. Reg. 11067; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 9392, effective July 26, 1983; amended at 10 Ill. Reg. 19093, effective October 28, 1986; amended at 11 Ill. Reg. 9945, effective May 12, 1987; transferred from Chapter I, 68 Ill. Adm. Code 470 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1470 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2981; emergency amendments at 13 Ill. Reg. 5771, effective April 5, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 13867, effective August 22, 1989; amended at 16 Ill. Reg. 7009, effective April 16, 1992; amended at 48 Ill. Reg. 2370, effective January 28, 1994; amended at 20 Ill. Reg. 1112, effective _____.

Section 1470.95 Continuing Education

- a) Continuing Education Hours Requirements

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- 1) Beginning with the November 30, 1993, license renewal and every renewal thereafter, every licensee who applies for renewal of a license as a social worker or clinical social worker shall complete 30 hours of continuing education (CE) relevant to the practice of social work or clinical social work.
 2) A pre-renewal period is the 24 months preceding November 30 of each odd-numbered year.
 3) CE requirements shall be the same for licensed social workers and licensed clinical social workers.
 4) One CE hour shall equal one clock hour.
 5) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
 6) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
 7) Social workers or clinical social workers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
 b) Approved Continuing Education (CE)
 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course ("program") that which is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3) and (4) below.
 2) CE credit also may be earned for completion of a self-study course that is offered by an approved sponsor who meets the requirements set forth in subsection (c) below. Each self-study course shall include an examination.
 3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of the social work related courses that which are a part of the curriculum of a college, university or graduate school of social work.
 4) CE credit may be earned for verified teaching in a college, university or graduate school of social work approved in accordance with Section 1470.30 and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program).
 5) CE credit may be earned for authoring papers, publications or books and for preparing presentations and exhibits. The preparation of each published paper, book chapter or audio-visual presentation dealing with social work or clinical social work may

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- 4) Each CE program shall provide a mechanism for evaluation of the program by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
- 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs.
- 6) All programs given by approved sponsors shall be open to all licensed social workers and licensed clinical social workers and not be limited to members of a single organization or group.
- 7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- 8) To maintain approval as a sponsor, each shall submit to the Department by November 30 of each odd-numbered year a renewal application, a \$100 fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.
- 9) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
 - A) The name, address and license number of the sponsor;
 - B) The name and address of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 10) The sponsor shall maintain attendance records for not less than 5 years.
- 11) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 12) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with this Section.
- 13) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

- d) Certification of Compliance with CE Requirements
 - 1) Each renewal applicant shall certify, on the renewal application,

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be claimed as 5 hours of credit. A presentation must be before a professional audience of social workers, clinical social workers, psychologists or professional counselors. Five credit hours may be claimed for only the first time the information is published or presented.

- c) Approved CE Sponsors and Programs
 - 1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation or any other group that which has been approved and authorized by the Department upon recommendation of the Board to coordinate and present continuing education courses or programs.
 - 2) Entities seeking approval as CE sponsors shall file an application, on forms supplied by the Department, along with the \$500 application fee. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify on the application the following:
 - A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section. A sponsor shall be required to submit a CE program with course materials for review prior to being approved as a CE sponsor;
 - B) That the sponsor will be responsible for verifying attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);
 - C) That upon request by the Department, the sponsor will submit evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this part and that this information is necessary to ensure compliance;
 - B) ~~That each sponsor shall submit to the Department written notice of program offerings 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered.~~
- 3) All programs shall:
 - A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the license in the practice of social work or clinical social work;
 - B) Foster the enhancement of general or specialized social work or clinical social work practice and values;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

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full compliance with the CE requirements set forth in subsections (a) and (b) above.

- 2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

- 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65] ~~†††††-Rev.--State-1997-CH-127-par-10-65†~~.

- e) Continuing Education Earned in Other Jurisdictions. If a licensee has earned CE hours offered in another state or territory not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, within 90 days after completion of the CE program and prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section. Applicants may seek individual program approval prior to the participation in the program.

- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 13(4) and (5) of the Act.

- g) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 13(3) of the Act, a statement setting forth the facts concerning non-compliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable pre-renewal period because of:

- A) Full-time service in the armed forces of the United States of America during a substantial part of the pre-renewal

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period;

- B) An incapacitating illness documented by a statement from a currently licensed physician;
- C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
- D) Any other similar extenuating circumstances.

- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Amended at 20 Ill. Reg.

4323

FLB 2)

Section 1470.96 Unethical, Unauthorized and Unprofessional Conduct

- a) The Department may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 19 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

- 1) Practicing or offering to practice beyond one's competency (for example, providing services and techniques for which one is not qualified by education, training and experience);

- 2) Revealing facts, data or information relating to a client or examinee, except as allowed under Section 16 of the Act or under the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110]. The release of information "with the consent of the client" as provided for in Section 16 of the Act is interpreted to mean that the social worker, prior to the release of the information, obtained written consent and made certain that the client understood the possible uses or distributions of the information. Case history material may be used for teaching or research purposes or in textbooks or other literature, provided that proper precautions are taken to conceal the identity of the client(s) or examinee(s) involved;

- 3) Making gross or deliberate misrepresentations or misleading claims as to his/her professional qualifications or of the efficacy or value of his/her treatments or remedies, or those of another practitioner;

- 4) Failing to inform prospective research subjects or their authorized representative fully of potential serious effects of the research or failing to remove the after effects as soon as the design of the research permits;

- 5) Refusing to divulge to the Department techniques or procedures used in his/her professional activities upon request;

- 6) Directly or indirectly giving to or receiving from any person,

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firm or corporation any fee, commission, rebate or other form of compensation for any professional services not actually rendered. Social workers shall not participate in illegal fee-splitting arrangements, nor shall they give or accept kickbacks for referrals. However, it is not unethical for social workers to utilize referral services for which a fee is charged, nor to participate in contractual arrangements under which they agree to discount fees:

- 7) Impersonating another person holding a clinical social work or social work license or allowing another person to use his/her license;
- 8) The commission of any dishonest, corrupt or fraudulent act that is substantially related to the functions or duties of a social worker providing services or supervising services;
- 9) The commission of any act of sexual misconduct, sexual abuse or sexual relations with one's client, patient, student, supervisor, see or with an ex-client within 24 months after termination of treatment;
- 10) Entering a treatment relationship in which professional judgment may be compromised by prior association with or knowledge of a client;
- 11) Permitting an intern or trainee under the social worker's supervision to perform, or to pretend to be competent to perform, professional services beyond the trainee's or intern's level of training. Disclosure of the intern's status and the name of the supervisor is required;
- 12) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors;
- 13) Failing to disclose conflicts of interests, dual relationships between social worker and clients, and/or obligations associated with service that might affect the client's decision to enter into or continue the relationship;
- 14) Discriminating based on race, gender, religion, national origin, political affiliation, social or economic status, choice of lifestyle or sexual orientation;
- 15) Knowingly providing services to a client when the social worker's objectivity or effectiveness is impaired. A social worker who becomes impaired and unable to function according to the standards of practice may be subject to disciplinary action if an active practice continues. Causes of impairment may include, but are not limited to, the abuse of mood altering chemicals and physical or mental problems;
- 16) Failing to insure that all records and written data are stored using security measures that prevent access to records by unauthorized persons. Social workers are responsible for insuring that the content and disposition of all records are in compliance with all relevant State laws and rules.

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b) The Department hereby incorporates by reference:

- 1) the "Code of Ethics of the National Association of Social Workers", National Association of Social Workers, 750 First Street NE, Suite 700, Washington, D.C. 20002-4241, 1993, with no later amendments or editions;
- 2) the "Code of Ethics", National Federation of Societies for Clinical Social Work, P.O. Box 3740, Arlington, Virginia 22203, May 1988, with no later amendments or editions.

(Source: Added at 20 Ill. Reg. _____, effective _____, 1993)

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- 1) Heading of the Part: Demonstration Programs
- 2) Code Citation: 89 Ill. Adm. Code 170
- 3) Section Numbers:

	<u>Adopted Action:</u>
170.400	New Section
170.450	New Section
- 4) Statutory Authority: Sections 11-6.2 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. 11-6.2 and 12-13] and Public Act 89-554.
- 5) Effective Date of Amendments: February 29, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: February 29, 1996
- 9) Notice of Proposal Published in Illinois Register:
Section 170.400
November 17, 1995 (19 Ill. Reg. 15572)
Section 170.450
December 1, 1995 (19 Ill. Reg. 16025)
- 10) Has JCARE issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version:
Section 170.400

The following changes were made in the text of the proposed amendments:

1. Throughout the rulemaking, all references to (IRIS) were changed to (I-SCAN).
2. In Section 170.400, "statewide" was deleted and "January 1, 1996" was changed to "March 1, 1996".
3. In Section 170.400(a)(2), the final semicolon was changed to a colon.
4. In Section 170.400(a)(2)(B), the final period was changed to "; and".

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5. In Section 170.400(b)(1), "to grant the exemption" was changed to "to be granted the exemption".
 6. Section 170.400(d)(2) was rewritten as follows:
"When a retinal scan produces a match, Department staff shall review the match information to determine if there is possible fraud."
 7. Section 170.400(d)(3) was rewritten as follows:
"Department staff shall forward match information which indicates potential fraud to Department investigators for further review."
 8. Section 170.400(e)(2) was rewritten as follows:
"The Department shall centrally generate and mail a retinal scanning reminder letter to clients in AFDC cases scheduled for a mail-in redetermination. The letter shall explain that retinal scanning is a requirement for continued AFDC cash eligibility."
 9. Section 170.400 (e)(3) was deleted and the remaining subsections were renumbered accordingly.
 10. Section 170.400(e)(4) was rewritten as follows:
"When a retinal scan produces a match, Department staff will receive the information on certain cases. Department staff shall refer the match information on these cases to the Department's investigators for further review."
 11. In Section 170.400(e)(5), "their" was changed to "its".
 12. In Section 170.400(e)(6), "appointment" was pluralized and "their" was changed to "his or her".
 13. In Section 170.700(e)(7), "case" was pluralized.
 14. In Section 170.400(e)(9), "with IRIS requirements" was deleted.
- No other changes have been made in the text of the proposed amendments.
- Section 170.450
- The following changes were made in the text of the proposed amendments:
1. In Section 170.450(c), "s" was deleted from "Teens".
 2. In Section 170.450(e)(3), a hyphen was added after "Stream III".

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3. Section 170.450(f), "of" was inserted after "Department".
4. In Section 170.450(g)(1), "central" was changed to "control".

No other changes have been made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these Amendments replace Emergency Amendments currently in effect? No

- 14) Are there any Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
170.350	New Section	July 21, 1995 (19 Ill. Reg. 10381)
170.360	New Section	August 4, 1995 (19 Ill. Reg. 11316)
170.370	New Section	August 4, 1995 (19 Ill. Reg. 11316)
170.380	New Section	October 6, 1995 (19 Ill. Reg. 13789)
170.390	New Section	November 27, 1995 (19 Ill. Reg. 15786)

- 15) Summary and Purpose of Amendments:

Section 170.400

These amendments were proposed to implement provisions of Public Act 88-554 which mandate the Department to implement a demonstration project to determine the cost-effectiveness of preventing multiple case fraud through the use of an electronic fingerprint matching identification system. The law also stipulated that the Department could test a retinal scanning identification system, in lieu of electronic fingerprinting, in one project area. The Department has elected to conduct a three-year demonstration project to test the use of retinal scanning technology to combat fraud and to determine which technology, electronic fingerprinting or retinal scanning, is most cost-effective.

The Illinois Retinal Identification System (I-SCAN) demonstration project will be conducted over a three-year period in the Granite City and East Alton local offices beginning March 1, 1996. This demonstration project will test the use of retinal scanning technology to combat fraud and ensure that an individual receives public assistance in only one case at a time. It will also facilitate the provisions of equitable and timely benefits to eligible families through implementation of a user friendly and fair system. These proposed amendments establish who must participate in the project, who is exempt, how clients will be notified of the project and the consequences of a client's failure or refusal to participate in the project.

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I-SCAN focuses specifically on the identification of multiple case fraud. Client-related causes of multiple case fraud include the failure to report changes in household composition and residence, name-spelling changes and use of false or multiple documents. False documents include manufactured identity documents and documents belonging to another person, such as someone deceased, incarcerated or someone who has moved out of the State.

A biometric identification system works on the principle that a machine must positively identify a person by capturing, storing and matching physical characteristics unique to the individual. Among the characteristics used for this purpose are fingerprints, finger lengths, voice patterns and retinal patterns. Retinal scanning technology is based on the fact that no two persons have the same pattern of blood vessels in their retinas.

Initial enrollment in the system requires about two minutes. Once a user has been enrolled, the system can be used in either of two modes--verification or recognition. In verification, the system compares the user's retinal pattern with the template stored in memory and verifies the identity of the user. In the recognition mode, the system checks all templates in the database in search of a match. In either mode, a positive identification of an enrolled individual is achieved in about 5 seconds.

Not all matches identified by I-SCAN will be the result of fraud or attempted fraud. Nonfraud matches would include situations where clients believed that their cases were cancelled and reapplied for assistance when, in fact, their cases were only suspended. Another example would be persons legitimately in two cases (as the recipient in one case and as a nonaided payee in another case).

Confidentiality

As mandated in Public Act 88-554, retinal patterns obtained and stored by I-SCAN are confidential records to be used solely by the Department in the administration of the AFDC Program. Patterns will not be shared with any other agencies, including the Illinois State Police and the Immigration and Naturalization Service, nor will those or any other agency have access to the I-SCAN database.

Mandatory Participants

For the Department's I-SCAN project, all adult AFDC recipients and payees (including second parents and minor parents) and nonaided payees in the household will be scanned. Temporary exemptions to retinal scanning will be permitted for persons with both eyes bandaged. Permanent exemptions will be allowed for persons who are blind. The retinal scanning requirement will not apply to Department staff persons appointed as

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protective payees.

Retinal Scanning as a Condition of Eligibility

The failure or refusal to cooperate with the retinal scanning requirement by a mandatory participant will result in ineligibility for the AFDC case; that is, denial of the AFDC application or termination of an active case. When the AFDC portion of a combined AFDC/Food Stamp/Medical application is denied due to the failure or refusal to cooperate with the retinal scanning requirement, the Food Stamp and Medical portions will continue to be processed in accordance with existing policy. Active cases for which AFDC benefits have been terminated will be converted to Non-Assistance Food Stamp cases or Non-Assistance Food Stamp/Medical Assistance No Grant cases and sent to appropriate caseworkers.

In the event of a system failure or prolonged downtime, the retinal scanning requirement will be considered as having been met if the applicant or recipient agrees to be scanned. (The applicant or recipient will be required to return and complete the scanning process when the system is again operational). In no case will issuance of benefits be delayed beyond regulatory time limits.

Client Notification

Material will be provided to all AFDC applicants which will thoroughly and clearly explain the retinal scanning process, the reasons for the process, the absolute confidentiality of information and the fact that cooperation with the retinal scanning process is a condition of eligibility. Active AFDC cases will receive an I-SCAN appointment letter. That letter will include a telephone number to call in order to reschedule the appointment, if necessary. Clients who refuse or fail to keep their appointments to be scanned, without good cause, will be issued an adequate and timely notice of denial or discontinuance.

Section 170.450

Pursuant to a waiver granted by the U. S. Department of Health and Human Services, these amendments implement the Young Parent Services South Home Visitor Demonstration, Project Link. This demonstration is a time-limited demonstration project administered by the Department in concert with a community-based organization. The demonstration is designed to support the development and evaluation of a home visitor component to enhance service delivery to teenage parents who are required to participate in educational and employment-related activities in the JOBS program.

As a result of these amendments, first time AFDC teen parents age 19 and under and teens on AFDC who become parents during the demonstration and are age 19 or under will be randomly assigned to one of three treatment

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streams:

1. a control group which receives current JOBS services;
2. experimental group A, which receives JOBS services and home visitor services from Department staff; or
3. experimental group B, which receives JOBS services and home visitor services from a community-based organization under contract with the Department.

The home visitors will provide instruction and supportive guidance in a wide variety of areas to:

1. enhance parenting skills;
2. promote effective family planning;
3. foster maintenance of preventative health care for the teen parents and their children;
4. provide resources and support with a special emphasis on child support, including paternity establishment; and
5. encourage active participation in required JOBS activities.

The overall objectives of this demonstration are intended to:

1. promote the objective of Title IV of the Family Support Act to strengthen family life and help AFDC families achieve the maximum self-support; and
2. add to current knowledge regarding the effectiveness of strategies designed to improve social, personal, health and economic outcomes among teenage parents and their children.

Project Link will be evaluated by measuring the client outcomes achieved by the participants in the two experimental groups as compared with the client outcomes achieved by the participants in the control group.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762

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(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER g: DEMONSTRATION PROGRAMS

PART 170
DEMONSTRATION PROGRAMS

SUBPART A: THE FRESH START
WELFARE REFORM DEMONSTRATION PROGRAM

Section
170.10
170.20
170.30
170.40
170.50

Youth Employment and Training Initiative
Paternal Involvement Project
Homeless Families Support Project
Family Responsibility Project
Income Budgeting Project

SUBPART B: THE CAREER ADVANCEMENT PROGRAM

Section
170.100
170.110
170.120
170.130

The Career Advancement Program
Career Advancement Experimental and Control Groups
Career Advancement Participation Requirements of Experimental Group Members
Career Advancement Supportive Services for Experimental Group Members

SUBPART C: COMMUNITY GROUP PARTICIPATION PROGRAM

Section
170.200

Community Group Participation Program

SUBPART D: EARNED INCOME INITIATIVE

Sections
170.250

Work Pays Demonstration

SUBPART E: THE SCHOOL ATTENDANCE INITIATIVE

170.300

School Attendance Initiative

SUBPART G: BIOMETRIC IDENTIFICATION DEMONSTRATION

170.400

Retinal Scanning

AUTHORITY: Implementing and authorized by Sections 4-8, 11-20, 12-13 and 12-4.28 of the Illinois Public Aid Code [305 ILCS 5/4-8, 11-20, 12-13 and 12-4.28].

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SOURCE: Adopted at 13 Ill. Reg. 14067, effective August 23, 1989; amended at 14 Ill. Reg. 19320, effective November 30, 1990; amended at 17 Ill. Reg. 19197, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19721, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3372, effective February 28, 1994; emergency amendment at 19 Ill. Reg. 645, effective January 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 7901, effective June 8, 1995; emergency amendment at 19 Ill. Reg. 15256, effective November 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15849, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16314, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 866, effective January 1, 1996; amended at 20 Ill. Reg. 4333, effective February 1, 1996.

SUBPART G: BIOMETRIC IDENTIFICATION DEMONSTRATION

Section 170.400 Retinal Scanning

The Department will operate the Illinois Retinal Identification System (I-SCAN) as a demonstration project for three years beginning March 1, 1996. The purpose of this project is to test the use of retinal scanning technology. The Granite City and East Alton local offices in Madison County have been designated as the research site.

- a) Selection of Participants

Unless exempt, the following persons will be required to participate in I-SCAN by undergoing a retinal scan:

 - 1) all adult applicants for AFDC (Category 04) and AFDC-U (Category 06) cash assistance;
 - 2) all adult recipients of AFDC (Category 04) and AFDC-U (Category 06) cash assistance, including:
 - A) second parents, and
 - B) minor grantees for cases in which he or she is considered an adult; and
 - 3) all payees for AFDC (Category 04) and AFDC-U (Category 06) assistance units who do not receive cash benefits in the case (except for protective payees and representative payees for teens).
- b) Exemption from Participation in Retinal Scanning
 - 1) A person with both eyes bandaged will be granted a temporary exemption from participation. To be granted the exemption, the person must provide a statement from a doctor verifying the medical condition. The exemption shall continue until the Department takes further action. When granting the initial exemption, the Department shall establish a date as to when the client's condition is expected to end or improve to the point that he or she can undergo a retinal scan.
 - 2) A person who is legally blind will be granted a permanent exemption from participation.
- c) Participant Cooperation

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- 1) The failure or refusal of a mandatory participant, who is not medically exempt, to cooperate with I-SCAN requirements will result in ineligibility for the entire AFDC assistance unit.
 - A) When the cash assistance portion of an application for AFDC, Medical and/or Food Stamps is denied, the local office will continue to process the Medical and Food Stamp portions.
 - B) Active cases for which AFDC cash assistance has been terminated will continue to be eligible for Medical and Food Stamps.
- 2) In the event of a system failure or an extended period of downtime, a person who agrees to have a retinal scan shall be considered as having cooperated. The person shall be required to return to the local office and complete the scanning process when the system is operational.
- 3) A mandatory adult who does not cooperate with I-SCAN requirements and applies for AFDC at another local office shall have the reason for their non-cooperation reviewed by the Department.
- 4) In no instance shall the issuance of benefits be delayed beyond the application processing time limits as specified in 89 Ill. Adm. Code 110.20.
- 5) The Department shall provide material to all AFDC applicants and recipients which will explain the following information:
 - A) the retinal scanning process;
 - B) the reason for the process;
 - C) the confidentiality of the information; and
 - D) the fact that cooperation with the retinal scanning process is a condition of eligibility.
- d) Intake

The local office will complete a retinal scan when a person applies for assistance. The local office shall be notified if an applicant fails to complete the retinal scanning process.

 - 1) The applicant will be given a second opportunity to complete a retinal scan as part of the eligibility interview process. If the applicant fails to appear for the eligibility interview or refuses to be scanned, the Department shall deny the cash assistance portion of their application.
 - 2) When a retinal scan produces a match, Department staff shall review the match information to determine if there is a possible fraud.
 - 3) Department staff shall forward match information which indicates potential fraud to Department investigators for further review.
 - 4) The Department's investigators shall advise the local office to deny the application if their investigation validates the match and finds no satisfactory reason for its occurrence.
- e) Active Cases
 - 1) The local office shall send a notice to adults in AFDC cases scheduled for a face-to-face redetermination advising them of the retinal scanning requirement. The notice shall also advise the

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mandatory adult or adults that he or she will be scheduled for a retinal scanning appointment at the completion of his or her redetermination interview.

2) The Department shall centrally generate and mail a retinal scanning reminder letter to clients in AFDC cases scheduled for a mail-in redetermination. The letter shall explain that retinal scanning is a requirement for continued AFDC cash eligibility.

3) When a retinal scan produces a match, Department staff will receive the information on certain cases. Department staff shall refer the match information on these cases to the Department's investigators for further review.

4) The Department's investigators shall advise the local office to take appropriate action to cancel AFDC cash assistance if the follow-up investigation validates the match and finds no satisfactory reason for its occurrence. The Department shall give the assistance unit appropriate notice that its cash assistance is being canceled. Once the appropriate notice has been given, the local office shall cancel the cash assistance portion of the AFDC case.

5) The local office shall make every effort to accommodate clients when they must reschedule their retinal scanning appointment. When a mandatory client fails to appear for his or her scheduled appointment and does not call to reschedule, the local office shall send a notice of negative action to the client for failure to comply with retinal scanning requirements.

6) The notice shall advise clients that they must comply with the retinal scanning requirement and reschedule the appointment in order to prevent cancellation of their cases. Clients who fail to respond to the notice will have their AFDC cash assistance canceled.

7) Whenever a new adult is added to an active case or there is a change in the payee, the local office shall inform the new individual of the I-SCAN requirements and schedule a retinal scanning appointment.

8) If a mandatory adult who is included in or is the payee for an active AFDC Medicaid case requests AFDC cash assistance, the local office shall inform the individual of the I-SCAN requirements and schedule a retinal scanning appointment. If the person fails to comply, the local office shall not approve the request for cash assistance.

(Source: Added at 20 Ill. Reg. 4333, effective FEB 24, 1983)

SUBPART G: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING
(JOBS) DEMONSTRATION PROGRAM

Section 170.450 Young Parent Services South Home Visitor Demonstration

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(Project Link)

a) The Young Parent Services South Home Visitor Demonstration, Project Link, is a time-limited demonstration project administered by the Department in concert with a community-based organization. It is designed to support the development and evaluation of a home visitor component to enhance service delivery to teenage parents who are required to participate in educational and employment-related activities in the Illinois JOBS program.

b) Teen parents who participate in the demonstration will receive services by a Home Visitor which will include modeling behavior and introduction on parenting skills, home and family management, study skills and career exploration. Teen mothers will also receive assistance in establishing paternity. Fathers of the children of program participants will be provided information and facilitating referrals for educational opportunities, job training and employment, assisting them to assume support obligations.

c) Teen parents eligible to participate in the demonstration are:

1) first time AFDC teen parents age 19 or under and their children; and

2) teens and their children on AFDC who become parents during the demonstration and are age 19 or under.

d) The demonstration is available to selected teen parents residing on the far south side of Chicago. Persons who are served by one of the six local Public Aid offices (Southeast, Calumet Park, Auburn Park, Roseland, South Suburban and Englewood) are eligible for the demonstration.

e) Teen parents are randomly assigned to:

1) Stream I - a control group receiving regular IDPA JOBS services;

2) Stream II - an experimental group receiving JOBS services and home visitor services from Department staff; or

3) Stream III - an experimental group receiving JOBS services and home visitor services from a community-based organization under contract with the Department.

f) Participation in Project Link is mandatory for all eligible clients via a waiver granted by the U.S. Department of Health and Human Services, Administration for Children and Families. All other provisions of 89 Ill. Adm. Code 112.83 are applicable.

g) The demonstration will study the effects of a home visitor component.

1) Research will include measuring the client outcomes achieved by the two experimental groups which have a home visitor function as compared with the client outcomes achieved by the control group.

2) The evaluation will describe the implementation, operation and outcomes of the program.

(Source: Added at 20 Ill. Reg. 4333, effective FEB 24, 1983)

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Section 140.475

Subsection (b)(3)(D) has been revised to read:

(D) whether a communication device will increase the client's potential for full participation in health care by assisting in cause and effect awareness, or training physical movements or improving the client's understanding and comprehension of his or her health needs and responsibilities; and

In the first sentence of subsection (c), the following language has been deleted, ", the item is not a rental or loaned item,".

New language has been added at the end of subsection (c), as follows:

The Department may agree to assume repair costs of a rented or loaned communication system if such an agreement is required by the manufacturer's or vendor's rental or loan terms.

The word "and" has been added to the end of subsection (e)(3).

Section 140.642

No changes have been made in the proposed amendments during the public comment period.

No other changes have been made in the text of the proposed rulemaking.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect?

Section 140.2 through Table M Section 140.475, 140.478 and 140.481

Yes No

Section 140.642

No

14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.7	Amendment	August 25, 1995 (19 Ill. Reg. 12210)
140.9	Amendment	August 25, 1995 (19 Ill. Reg. 12210)
140.24	Amendment	February 9, 1996 (20 Ill. Reg. 2346)
140.55	New Section	January 26, 1996 (20 Ill. Reg. 1466)
140.400	Amendment	February 9, 1996 (20 Ill. Reg. 2346)
140.435	Amendment	February 9, 1996 (20 Ill. Reg. 2346)
140.490	Amendment	December 8, 1995 (19 Ill. Reg. 16134)
140.491	Amendment	December 8, 1995 (19 Ill. Reg. 16134)

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140.492	Amendment	December 8, 1995 (19 Ill. Reg. 16134)
140.493	New Section	December 8, 1995 (19 Ill. Reg. 16134)
140.523	Amendment	January 19, 1996 (20 Ill. Reg. 1146)
140.570	Amendment	December 22, 1995 (19 Ill. Reg. 16778)

15) Summary and Purpose of Amendments:

Sections 140.2 through Table M

These amendments are required to implement the Maternal and Child Health Program, which is replacing the Department's Healthy Moms/Healthy Kids Program (HM HK). The HM HK Program, which ensures access to essential medical services for pregnant women and children, has provided for the enrollment of clients with a specific medical provider through a federal waiver which has now expired. The Department's intent had been to continue this managed care approach for HM/HK services under the managed care program to be known as MediPlan Plus. However, federal approval for MediPlan Plus has been delayed. Therefore, extensive changes in the HM/HK Program are being made to ensure that access to necessary health care is continued for pregnant women and children.

Medical support services under the Maternal and Child Health Program will be provided through a case management component for pregnant women and children under 12 months of age and wards of the Department of Children and Family Services who are age five years or under. Providers in the Program may include physicians, Federally Qualified Health Centers, hospital clinics and encounter rate clinics that meet qualifications as described in the amendments. The program is designed to encourage provider participation through rare incentives, including increased payment rates for selected services and expedited payments.

It is anticipated that these amendments will result in an approximate savings in fiscal year 1996 of \$5.7 million. This savings is expected to occur because of a decrease in the age of children who are eligible for care in the Maternal and Child Health Program and because of the elimination of maintenance payments under the HM/HK Program of \$5 per child/month.

Sections 140.475, 140.478 and 140.481

These amendments provide coverage for augmentative communication devices in the Medical Assistance Program. Augmentative communication devices supplement, or are alternatives to, vocal communication. Such devices are available in a continuum ranging from very simple, such as picture books and picture boards, to highly complex computerized systems. Coverage will extend to necessary peripherals, such as special input and output devices and mounting and positioning equipment. Augmentative communication devices will be covered by the Department as durable medical equipment and supplies for medical assistance recipients in the community and institutional settings. The determination of medical necessity for a

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communication device will be based upon the recipient's ability to communicate with a physician or other principal caregiver.

The Department is providing coverage for augmentative communication devices to meet the medical and communication needs of recipients who have significant speech-language disabilities. The text of the amendments is the result of a cooperative effort by the Department, the Department of Rehabilitation Services, the Illinois Assistive Technology Project, and the Division of Specialized Services for Children, as well as speech-language pathologists. The policies and procedures pertaining to this new coverage have been agreed upon by the agencies involved and the provider community.

The Department's anticipated budgetary impact is based on information regarding client need and interest from the provider community, especially speech-language pathologists. The Department is expecting approximately 300 prior approval requests per year for communication devices. Although costs will vary widely depending upon the actual device needed, the average cost will be about \$3,000. Therefore, the increase in Department expenditures due to these amendments is expected to be approximately \$900,000 per year.

Section 140.542

These amendments are the result of recommendations from an interagency committee composed of staff from the Departments of Mental Health and Developmental Disabilities and Public Aid, concerning criteria utilized to determine the need for ICF/MR services. The existing criteria, which require that an individual must have deficits in at least three of the six specified major life areas, are more restrictive than federal requirements. The amendments provide less rigid criteria that are still in compliance with federal regulations. According to these amendments, the criteria pertaining to substantial functional limitations in the areas of major life activity are applied only to persons with conditions related to mental retardation. The primary determinant for the need for ICF/MR services is the need for active treatment. The amendments provide extensive descriptions from federal regulations regarding "active treatment" and what is meant by a "related condition".

The consensus reached by the interagency committee on these issues has been supported by the Health Care Financing Administration in a letter of October 7, 1994, to the American Health Care Association, and in a letter of June 22, 1995, to the Department.

These proposed amendments are not expected to result in any budgetary changes.

16) Information and questions regarding these Adopted Amendments shall be directed to:

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NOTICE OF ADOPTED AMENDMENTS

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

- Section**
- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under the Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify as Mandatory Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver)
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under GA
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance provided to incarcerated persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

- Section**
- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
- 140.20 Submittal of Claims
- 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)

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- Section**
- 140.22 Magnetic Tape Billings
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Terminated, Suspended or Barred Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice
- 140.72 Voucher Advance Payment and Expedited Payments
- 140.73 Drug Manual Updates (Recorded)

SUBPART C: PROVIDER ASSESSMENTS

- Section**
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recordified)
- 140.97 Special Requirements (Recordified)
- 140.98 Covered Hospital Services (Recordified)
- 140.99 Hospital Services Not Covered (Recordified)
- 140.100 Limitation on Hospital Services (Recordified)
- 140.101 Transplants (Recordified)
- 140.102 Heart Transplants (Recordified)
- 140.103 Liver Transplants (Recordified)
- 140.104 Bone Marrow Transplants (Recordified)
- 140.111 Disproportionate Share Hospital Adjustments (Recordified)
- 140.116 Payment for Inpatient Services for GA (Recordified)
- 140.117 Hospital Outpatient and Clinic Services (Recordified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recordified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recordified)
- 140.203 Limits on Length of Stay by Diagnosis (Recordified)

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140.300 Payment for Pre-operative Days and Services Which Can Be Performed in
an Outpatient Setting (Recodified)

140.350 Copayments (Recodified)

140.360 Payment Methodology (Recodified)

140.361 Non-Participating Hospitals (Recodified)

140.362 Pre July 1, 1989 Services (Recodified)

140.363 Post June 30, 1989 Services (Recodified)

140.364 Prepayment Review (Recodified)

140.365 Base Year Costs (Recodified)

140.366 Restructuring Adjustment (Recodified)

140.367 Inflation Adjustment (Recodified)

140.368 Volume Adjustment (Repealed)

140.369 Groupings (Recodified)

140.370 Rate Calculation (Recodified)

140.371 Payment (Recodified)

140.372 Review Procedure (Recodified)

140.373 Utilization (Repealed)

140.374 Alternatives (Recodified)

140.375 Exemptions (Recodified)

140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)

140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)

140.391 Definitions (Recodified)

140.392 Types of Subacute Alcoholism and Substance Abuse Services
(Recodified)

140.394 Payment for Subacute Alcoholism and Substance Abuse Services
(Recodified)

140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services
(Recodified)

140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

140.400 Payment to Practitioners, Nurses and Laboratories

140.410 Physicians' Services

140.411 Covered Services By Physicians

140.412 Services Not Covered By Physicians

140.413 Limitation on Physician Services

140.414 Requirements for Prescriptions and Dispensing of Pharmacy
Items - Physicians

140.416 Optometric Services and Materials

140.417 Limitations on Optometric Services

140.418 Department of Corrections Laboratory

140.420 Dental Services

140.421 Limitations on Dental Services

140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy
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140.425 Podiatry Services

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140.426 Limitations on Podiatry Services

140.427 Requirement for Prescriptions and Dispensing of Pharmacy
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140.428 Chiropractic Services

140.429 Limitations on Chiropractic Services (Repealed)

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140.431 Services Not Covered by Independent Laboratory

140.432 Limitations on Independent Laboratory Services

140.433 Payment for Laboratory Services

140.434 Record Requirements for Independent Laboratories

140.435 Nurse Services

140.436 Limitations on Nurse Services

140.440 Pharmacy Services

140.441 Pharmacy Services Not Covered

140.442 Prior Approval of Prescriptions

140.443 Filling of Prescriptions

140.444 Compounded Prescriptions

140.445 Legend Prescription Items (Not Compounded)

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140.448 Returned Pharmacy Items

140.449 Payment of Pharmacy Items

140.450 Record Requirements for Pharmacies

140.452 Mental Health Clinic Services

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140.454 Types of Mental Health Clinic Services

140.455 Payment for Mental Health Clinic Services

140.456 Hearings

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140.458 Prior Approval for Therapy Services

140.459 Payment for Therapy Services

140.460 Clinic Services

140.461 Clinic Participation, Data and Certification Requirements

140.462 Covered Services in Clinics

140.463 Clinic Service Payment

140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)

140.465 Speech and Hearing Clinics (Repealed)

140.466 Rural Health Clinics

140.467 Independent Clinics

140.469 Hospice

140.470 Home Health Services

140.471 Home Health Covered Services

140.472 Types of Home Health Services

140.473 Prior Approval for Home Health Services

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Will Not Be Made

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140.477 Limitations on Equipment, Supplies and Prosthetic Devices
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 140.483 Limitations on Family Planning Services
 140.484 Payment for Family Planning Services
 140.485 Healthy Kids Program
 140.486 Limitations on Medichex Services (Repealed)
 140.487 Healthy Kids Program Timeliness Standards
 140.488 Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures
 140.490 Medical Transportation
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SUBPART E: GROUP CARE

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 140.503 Cessation of Payment for Improper Level of Care
 140.504 Cessation of Payment Because of Termination of Facility
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 140.506 Provider Voluntary Withdrawal
 140.507 Continuation of Provider Agreement
 140.510 Determination of Need for Group Care
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 140.512 Utilization Control
 140.513 Utilization Review Plan (Repealed)
 140.514 Certifications and Recertifications of Care
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 140.530 Basis of Payment for Long Term Care Services
 140.531 General Service Costs
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 140.567 Level II Incentive Payments (Repealed)
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 140.569 Clients With Exceptional Care Needs
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 140.850 General Description (Repealed)
 140.855 Definition of Terms (Repealed)
 140.860 Covered Services (Repealed)
 140.865 Sponsor Qualifications (Repealed)
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 140.890 Payment Methodology (Repealed)
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 140.896 Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Recodified)

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140.903 Definitions (Recodified)
 140.904 Times and Staff Levels (Repealed)
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 140.912 Interim Nursing Rates (Recodified)
 140.920 General Description
 140.922 Covered Services
 140.924 Maternal and Child Health Provider Participation Requirements
 140.926 Client Eligibility (Repealed)
 140.928 Client Enrollment and Program Components (Repealed)
 140.930 Reimbursement
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SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section
 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
 140.942 Definition of Terms (Recodified)
 140.944 Notification of Negotiations (Recodified)
 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
 140.948 Negotiation Procedures (Recodified)
 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
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 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
 140.964 Contract Monitoring (Recodified)
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 140.970 Termination of ICARE Contracts (Recodified)
 140.972 Hospital Services Procurement Advisory Board (Recodified)

140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)

140.980 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married and Living With Spouse, Regardless Of Age

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(Emergency Expired)

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TABLE J	HSA Grouping (Repealed)
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TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
TABLE M	Enhanced Rates for Maternal and Child Health Healthy-Moms/Healthy Kids Provider Services

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill.

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Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended

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at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.914 thru 140.916 recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.207 thru 147.209, effective July 1, 1990; amended at 12 Ill. Reg. 6956, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19,

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1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6334, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5,

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1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective

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SUBPART A: GENERAL PROVISIONS

Section 140.2 Medical Assistance Programs

- a) Under the Medical Assistance Programs, the Department pays participating providers for necessary medical services, specified in Section 140.3 through 140.7 for:
- 1) persons eligible for financial assistance under the Department's Aid to the Aged, Blind or Disabled-State Supplemental Payment (AABD-SSP) and Aid to Families with Dependent Children (AFDC) programs (Medicaid - MAG);
 - 2) persons who would be eligible for financial assistance but who have resources in excess of the Department's eligibility

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- standards and who have incurred medical expenses greater than the difference between their income and the Department's standards (Medicaid - MANG);
- 3) persons receiving financial assistance under the Department's General Assistance (GA) program, either State Transitional Assistance or State Family and Children Assistance (GA-Medical);
 - 4) individuals under age 18 who do not qualify for AFDC/AFDC-MANG and infants under age one year (see Section 140.7);
 - 5) pregnant women who would not be eligible for AFDC/AFDC-MANG if the child were born and who do not qualify as mandatory categorically needy (see Section 140.9);
 - 6) persons who are eligible for Title IV-E adoption assistance/foster care assistance from another State and who are living in Illinois; and
 - 7) noncitizens who have an emergency medical condition (see 89 Ill. Adm. Code 120.310); however, payment is not included for care and services related to an organ transplant procedure.
- b) "Necessary medical care" is that which is generally recognized as standard medical care required because of disease, disability, infirmity or impairment.
- c) The Department may impose prior approval requirements, as specified by rule, to determine whether the medical care is necessary and eligible for payment from the Department in individual situations. Such requirements shall be based on recommendations of technical and professional staff and advisory committees.
- d) When recipients are entitled to Medicare benefits, the Department shall assume responsibility for their deductible and coinsurance obligations, unless the recipients have income and/or resources available to meet these needs. The total payment to a provider from both Medicare and the Department shall not exceed either the amount that Medicare determines to be a reasonable charge or the Department standard for the services provided, whichever is applicable. The Department shall pay for services and items not allowed by Medicare only if they are provided in accordance with Department policy for recipients not entitled to Medicare benefits.
- f) The Department may contract with qualified practitioners, hospitals and all other dispensers of medical services for the provision and reimbursement of any and all medical care or services as specified in the contract on a prepaid capitation basis (i.e., payment of a fixed amount per enrollee made in advance of the service); volume purchase basis (i.e., purchase of a volume of goods or services for a price specified in the contract); ambulatory visit basis (i.e., one comprehensive payment for each visit regardless of the services provided during that visit) or per discharge basis (i.e., one comprehensive payment per discharge regardless of the services provided during the stay). Such contracts shall be based either on formally solicited competitive bid proposals or individually negotiated rates with providers willing to enter into special

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contractual arrangements with the State.

- g) The Department may require that recipients of medical assistance under any of the Department's programs exercise their freedom of choice by choosing to receive medical care under the traditional fee for service system or through a prepaid capitation plan or under one of the other alternative contractual arrangements described in subsection (f). The categories of recipients who may choose or be assigned to an alternative plan will be specified in the contract. Recipients required to make such a choice will be notified in writing by the Department. If a recipient does not choose to exercise his/her freedom of choice, the Department may assign that recipient to a prepaid plan. Under such a plan, recipients would obtain certain medical services or supplies from a single source or limited source. ~~Recipients enrolled in a prepaid plan may disenroll--if a recipient is assigned to a prepaid plan he/she will be permitted to revoke that assignment at any time. The Department will notify recipients in writing if they are assigned to a prepaid plan. Recipients enrolled in or assigned to a prepaid plan will receive written notification advising them of the services which they will receive from the plan. Covered services not provided by the plan will be reimbursed by the Department on a fee for service basis. Recipients will receive a medical eligibility card which will apply to such services. The recipient shall notify the contractor and execute a disenrollment form if he/she wants to disenroll or revoke the assignment.~~
- h) The Department may enter into contracts for the provision of medical care on a prepaid capitation basis from a Health Maintenance Organization (HMO) whereby the recipient who chooses to receive medical care through an HMO must stay in the HMO for a certain period of time, not to exceed six months (the enrollment period). Upon written notice, the recipient may choose to disenroll from such an HMO at any time within the first month of each enrollment period. The Department will send the recipient a notice at least 30 days prior to the end of the enrollment period which gives the recipient a specified period of time in which to inform the Department if the recipient does not wish to re-enroll in the HMO for a new enrollment period. The recipient may then disenroll at the end of the enrollment period only if the recipient responds to the notice and indicates in writing a choice to disenroll. Failure to respond to the notice will result in automatic re-enrollment for a new enrollment period. Recipients shall also be allowed to disenroll at any time for cause.
- i) The Department may enter into contracts for the provision of medical care on a prepaid capitation basis from a Health Maintenance Organization whereby the recipient who chooses to receive medical care through an HMO may choose to disenroll at any time, upon written notice.
- j) The Department shall pay for services under the Maternal and Child Health Healthy-Moms/Healthy-Kids Program, a primary health care program for pregnant women and children (see Subpart G).

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(Source: Amended at 20 Ill. Reg. **4345**, effective MAR 4 1995)

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.40 Prior Approval for Medical Services or Items

- a) The Department may impose prior approval requirements, as specified by rule, to determine the essentialness of medical care provided in individual situations. Such requirements shall be based on recommendations of technical and professional staff and advisory committees.
- b) In general, in order for prior approval to be granted, items and services must be:
- 1) non-experimental,
 - 2) appropriate to the client's needs,
 - 3) necessary to avoid institutional care, and
 - 4) medically necessary to preserve health, alleviate sickness, or correct a handicapping condition.
- c) Providers are responsible for requesting prior approval for medical services or items. Prior approval requests must show:
- 1) the case name,
 - 2) patient name,
 - 3) case identification number,
 - 4) recipient number,
 - 5) patient age, address, and whether or not the patient resides in a group care facility,
 - 6) identification of the practitioner prescribing or ordering the item or service,
 - 7) diagnosis,
 - 8) description of item or service,
 - 9) treatment plan,
 - 10) how long the service or item will be needed, and
 - 11) purchase or rental cost.
- d) To the extent possible, the request should show how the item or service is expected to correct or help the condition, and why the requested treatment plan is better than any other plan commonly used to deal with similar diagnoses or conditions. Anything unique to the medical condition or living arrangement affecting the choice of a recommended treatment plan or item should be explained.
- e) A written notice of disposition of the request for prior approval will be sent to the client within the time limits prescribed below. If the notice of disposition is not sent within the applicable time limit, prior approval will be granted automatically. Oral notification only will be given only when a request for medical transportation is approved.
- f) ~~Certain services of providers other than the Primary-Care-Provider under the Healthy-Moms/Healthy-Kids Program require authorization by~~

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the Primary Care Provider (see Section 140-9327;

(Source: Amended at 20 Ill. Reg. **4345**, effective

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.413 Limitation on Physician Services

a) When provided in accordance with the specified limitations and requirements, the Department shall pay for the following services:

- 1) Termination of pregnancy -- only in those cases in which the physician has certified in writing to the Department that the procedure is necessary to preserve the life of the mother. All claims for reimbursement for abortions or induced miscarriages or premature births must be accompanied by the physician's written certification which specifies that the procedure is necessary for preservation of life of woman, or that the induced premature birth was to produce a live viable child and was necessary for the health of mother or her unborn child.

2) Sterilization

A) Therapeutic sterilization -- only when the procedure is either a necessary part of the treatment of an existing illness, or is medically indicated as an accompaniment of an operation on the female genitourinary tract. Mental incapacity does not constitute an illness or injury which would authorize ~~in respect to~~ this procedure.

B) Nontherapeutic sterilization -- only for recipients age 21 or older and mentally competent. The physician must obtain the recipient's informed written consent in a language understandable to the recipient before performing the sterilization and must advise the recipient of the right to withdraw consent at any time prior to the operation. The operation shall be performed no sooner than 30 days and no later than 180 days following the date of the recipient's written informed consent except in cases of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of premature delivery or emergency abdominal surgery if at least 72 hours have passed since informed consent was given.

3) ~~End-stage renal disease treatment--chronic--hemodialysis--and kidney transplantation--is limited to those recipients who have been determined medically eligible--for--such--treatment--by--the Illinois Department of Public Health.~~

3) ~~By-pass surgery for morbid obesity -- only with the prior approval of the Department. The Department shall approve payment for this service only in those cases in which it determines that obesity is exogenous in nature, the recipient has had the benefit~~

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of other therapy with no success, and endocrine disorders have been ruled out. (See Sections 140.40 through 140.42 for prior approval requirements.)

4) ~~5~~ Psychiatric Services

A) Treatment -- when the services are provided by a physician who has been enrolled as an approved provider with the Department. Psychiatric treatment services are not covered services for Recipients of General Assistance or Aid to the Medically Indigent.

B) Consultation -- only when necessary to determine the need for psychiatric care. Services provided subsequent to the initial consultation must comply with the requirements for treatment.

5) ~~6~~ Services provided to a recipient in his home ~~place-of--residence~~ -- only when the recipient is physically unable to go to the physician's office.

6) ~~7~~ Services provided to recipients in group care facilities by a physician other than the attending physician -- only for emergency services provided when the attending physician of record is not available or when the attending physician has made referral with the recipient's knowledge and permission.

7) ~~8~~ Services provided to recipients in a group care facility by a physician who derives a direct or indirect profit from total or partial ownership (or from other types of financial investment for profit in the facility -- only when occasioned by an emergency due to acute illness, unavailability of essential treatment facilities in the vicinity for short-term care pending transfer, or when there is no comparable facility in the area.

8) ~~9~~ Maternity care -- Payment shall be made for pre-natal and post-natal care only when the following conditions are met:

A) the physician, whether based in a hospital, clinic, or individual practice, retains hospital delivery privileges or maintains a written referral arrangement with another physician who retains such privileges or has been included in the Maternal and Child Health Program as a result of having entered into an appropriate Healthy Moms/Healthy Kids Program provider agreement ~~or receives payment authorization for--referral--from--the--Department's--independent-contractor as described in Sections 140-928(a)(7) and 140-932(a);~~

B) the written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; and

C) maternal services are delivered in a manner consistent with the quality of care guidelines published by the American College of Obstetricians and Gynecologists in the current edition of the "Standards for Obstetric Gynecologic Services" (1989 Edition), 409 12th Street S.W., Washington,

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D.C. 20024-2188.

9)††† Physician services to children under age twenty-one

A) Payment shall be made only when the physician meets one or more of the following conditions. The physician:

- i) has admitting privileges at a hospital; or
- ii) is certified or is eligible for certification in pediatrics or family practice by the medical speciality board recognized by the American Board of Medical Specialities; or
- iii) is employed by or affiliated with a Federally Qualified Health Center; or

iv) is a member of the National Health Service Corps; or

v) has been certified by the Secretary of the Department of Health and Human Services as qualified to provide physicians' services to a child under 21 years of age; or

vi) has current, formal consultation and referral arrangements with a pediatrician or family practitioner for the purposes of specialized treatment and admission to a hospital. The written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; or

vii) has entered into a Maternal and Child Health provider agreement or has otherwise been transferred in from the Healthy Moms/Healthy Kids Program ~~agreement---or---receives---payment---authorization---for referral---from---the---Department's---Independent---contractor described in Sections---140-920(a)(7) and 140-932(a).~~

B) The physician shall certify to ~~showid-notify~~ the Department of the way in which he or she meets the above criteria; and

C) Services to children are delivered in a manner consistent with the standards of the American Academy of Pediatrics and rules as published by the Illinois Department of Public Health (77 Ill. Adm. Code 630, Maternal and Child Health Services; 77 Ill. Adm. Code 665, Child Health Examinations; 77 Ill. Adm. Code 675, Hearing Screening; 77 Ill. Adm. Code 685, Vision Screening).

10)††† Hysterectomy -- only if the individual has been informed, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing and the individual has signed a written acknowledgement of receipt of the information. The Department will not pay for a hysterectomy which would not have been performed except for the purpose of rendering an individual permanently incapable of reproducing.

11)††† Selected surgical procedures including:-

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- A) Tonsillectomies or Adenoidectomies
- B) Hemorrhoidectomies
- C) Cholecystectomies
- D) Disc Surgery/Spinal Fusion
- E) Hysterectomies
- F) Joint Cartilage Surgery/Meniscectomies
- G) Excision of Varicose Veins
- H) Submucous Resection/Rhinoplasty/Repair of Nasal System
- I) Mastectomies for Non-Malignancies
- J) Surgical procedures which generally may be performed in an outpatient setting (see Section 140.117) only if the Department authorizes payment. The Department will in some instances require that a second physician agree that the surgical procedure is medically necessary prior to approving payment for one of these procedures. The Department will require a second opinion when the attending physician has been notified by the Department that he will be required to obtain prior approval for payment for the surgeries listed. (See Sections 140.40 through 140.42 for prior approval requirements†.) The Department will select physicians for this requirement based on the recommendation of a peer review committee that has reviewed the utilization pattern of the physician.

12)††† Mammography screening

A) Covered only when ordered by a physician for screening by low-dose mammography for the presence of occult breast cancer under the following guidelines:

- i) a baseline mammogram for women 35 through 39 years of age;
- ii) a mammogram every one to two years for women 40 through 49 years of age; or
- iii) a mammogram once per year for women 50 years of age or older.

B) As used in this rule, "low-dose mammography" means the x-ray examination of the breast using equipment specifically designated for mammography that will meet appropriate radiological standards.

b) In cases where a physical examination by a second physician is needed, the Department will notify the recipient and designate a physician to perform the examination. Physicians will be subject to this requirement for six †† months after which a request can be submitted to the peer review committee to consider removal of the prior approval requirement.

(Source: Amended at 20 Ill. Reg. _____, effective _____, and 4 1996)

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Section 140.460 Clinic Services

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The following types of clinics are eligible to receive payment for clinic services:

- a) Hospital-based organized clinics;
- b) Encounter rate clinics;
- c) Federally Qualified Health Centers (FQHCs);
- d) Rural health clinics;
- e) Mental health clinics (see Sections 140.452 through 140.456); and
- f) Maternal and Child Health Healthy--Moms+Healthy--Kids--Managed-Care Clinics.

(Source: Amended at 20 Ill. Reg. 4545, effective _____)

Section 140.461 Clinic Participation, Data and Certification Requirements

- a) Hospital-based organized clinics must:
 - 1) Have an administrative structure, staff program, physical setting, and equipment to provide comprehensive medical care;
 - 2) Agree to assume complete responsibility for diagnosis and treatment of the patients accepted by the clinic, or provide, at no additional cost to the Department, for the acquisition of these services through contractual arrangements with external medical providers;
 - 3) Be adjacent to or on the premises of the hospital and be licensed under the Hospital Licensing Act or the University of Illinois Hospital Act; and
 - 4) Meet the applicable requirements of 89 Ill. Adm. Code 148.40(d).
- b) Encounter rate clinics must be presently participating in the Medical Assistance Program. Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities. In order to participate in the Maternal and Child Health Healthy--Moms+Healthy--Kids Program, as described in Subpart G, encounter rate clinics shall be required to meet the additional participation requirements described in Section 140.924(a)(2)(b).
- c) Rural health clinics must be certified by the Social Security Administration as meeting the requirements for Medicare participation.
- d) Federally Qualified Health Centers (FQHCs)
 - 1) Must be Health Centers which:
 - A) receive a grant under Section 329, 330 or 340 of the Public Health Service Act; or
 - B) based on the recommendation of the Health Resources and Services Administration, within the Public Health Service, are determined to meet the requirements for receiving such a grant.
- 2) In order to participate in the Healthy--Moms+Healthy--Kids Program as described in Subpart G, FQHCs must be required to meet the

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~~Additional participation requirements--described--in--Section 140.924(a)(2)(b):~~

- 2) Section 4602 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), which amended Section 1902(a)(55) of the Social Security Act (42 U.S.C. Section 1396a(a)(55)), requires states to receive and initially process Medicaid applications from low-income pregnant women and children under the age of 19 at locations other than the local Public Aid office. Such a site is referred to as an outstation.

A) Outstations will be located at those FQHCs which the Department determines serve heavy Medicaid populated areas. For areas in which the Department determines that maintaining outstation workers is not economical, the local Public Aid office will continue to be the application location.

B) The FQHCs, which will provide outstation eligibility staff to accept and assist in the initial processing of the Medicaid DPA 2378MC application for pregnant women and children, will forward the completed application to the appropriate IDPA local office. Initial processing means accepting and completing the application, providing information and referrals, obtaining required documentation to complete processing of the application, assuring that the information contained on the application form is complete and conducting any necessary interviews. Neither the FQHCs nor the outstation workers will evaluate the information contained on the application, nor make any determination of eligibility or ineligibility. The IDPA local office is responsible for these functions.

C) Costs allowable under the federal outstation mandate for completing form DPA 2378MC will be itemized in Section B of Schedule I of the FQHC Medicaid cost report and will be provided annually in the FQHC cost reporting process. These allowable costs will be collected, computed and calculated, and will result in the establishment of an outstation administrative rate and a Medicaid rate. The allowable costs are:

- i) Salary of outstation worker;
- ii) Fringe benefits;
- iii) Training;
- iv) Travel; and
- v) Supplies.

D) FQHC outstation workers must receive certification through Maternal and Child Health (MCH) process training by the Department before they begin to perform eligibility processing functions. Failure to become certified results in any MCH application completed by an ineligible worker being non-allowed on the cost report.

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of the hospital or are not licensed under the Hospital Licensing Act or the University of Illinois Hospital Act. Through staff and supporting resources, these clinics provide ambulatory primary care in a non-emergency setting to Medicaid children from birth through 20 years of age, and to pregnant women. At least 50% percent of all staff physicians providing care in a CHOSC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50% percent of patient visits to the CHOSC must be for primary care. Primary care consists of basic health services provided by a physician or other qualified medical professional to maintain the day-to-day health status of a patient, without requiring the level of medical technology and specialized expertise necessary for the provision of secondary and tertiary care. CHOSCs will meet the requirements in subsections (a)(1) and (a)(2) above.

C) Certified Obstetrical Ambulatory Care Centers (COBACC), which are hospital-based organized clinic entities, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide primary care and specialty services to Medicaid eligible pregnant women, especially those determined to be non-compliant or at high risk, in an outpatient setting.

D) Certified Pediatric Ambulatory Care Centers (CPACC), which are hospital-based organized clinic entities, as described in subsection (a) above, owned and operated by a hospital as described in 89 Ill. Adm. Code 149.50(c)(3), and meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide pediatric primary care and specialty services as described in Section 140.462(e)(3)(C) to Medicaid enrolled children with specialty needs, as described in Section 149.462(e)(3)(E) from birth through 20 years of age in an outpatient setting. Hospitals with CPACCs must also provide primary care for at least 1,500 children, either through its CPACC or through a CHAPCC, CHOSC or encounter rate clinic operated by the same hospital not eligible for enrollment in the CPACC or CHOSC. CHAPCCs, CHOSCs, and encounter rate clinics are described in Section 149.462(e)(3)(F) and Section 149.462(e)(3)(G).

2) General Participation Requirements

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E) FQHCs must have adequate staff trained with proper backup to accommodate unforeseen problems. FQHCs must be able to meet the demand of this initiative, either using staff at one location or rotating staff as dictated by workload or staffing availability. The FQHC must have staff available at each outstation location during regular office operating hours.

F) Outstation intake staff may perform other FQHC intake processing functions, but the time spent on outstation activities must be documented and must be identifiable for cost reporting and auditing purposes.

G) The FQHC must display a notice in a prominent place at the outstation location advising potential applicants of the times that outstation intake workers will be available. The notice must include a telephone number that applicants may call for assistance.

H) The FQHC must comply with federal and State laws and regulations governing the provision of adequate notice to persons who are blind or deaf or who are unable to read or understand the English language.

I) Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities.

J) Maternal and Child Health Healthy--Moms/Healthy--Kids--Managed-Care Clinics

1) Types of Clinics

The following clinics shall qualify as Maternal and Child Health Healthy--Moms/Healthy--Kids--Managed-Care Clinics are as follows:

A) Certified Hospital Ambulatory Primary Care Centers (CHAPCC), which are hospital-based organized outpatient clinics, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide ambulatory primary care to Medicaid children from birth through 20 years of age, and pregnant women in a non-emergency room setting. At least 50% percent of all staff physicians providing care in a CHAPCC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50% percent of patient visits to the CHAPCC must be for primary care.

B) Certified Hospital Organized Satellite Clinics (CHOSC), which are clinics meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that are owned, operated, and/or managed by a hospital but do not qualify as hospital-based organized clinics, as described in subsection (a) above, because they are not located adjacent to or on the premises

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In addition to the Maternal and Child Health ~~Healthy-Moms-Healthy Kids-provider~~ participation requirements described in Section 140.924(a)(1), the Maternal and Child Health ~~Healthy-Moms-Healthy Kids--managed-care~~ clinics identified in subsection (f)(1) above must:

A) ~~Provide managed-care to clients--as described--in--Section 140.924(b)(1);~~

A)B) Be operated by a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120, be staffed by board certified/eligible physicians who have hospital admitting and/or delivery privileges, be operated by a hospital in an organized corporate network of hospitals having a total of more than 1,000 staffed beds, and agree to provide care for a minimum of 100 pregnant women or children ~~Healthy Moms-Healthy--Kids-clients;~~ or be a primary care teaching site of an organized academic department of:

i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education, or other published source of accrediting information.

ii) In the case of clinics described in subsection (f)(1)(C) above, an obstetrical residency program accredited by the American Accreditation Council for Graduate Medical Education, or other published source of accrediting information with at least 130 full-time equivalent residents.

iii) In the case of clinics described in subsection (f)(1)(D) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education, or other published source of accrediting information with at least 130 full-time equivalent residents;

B)E) Under the direction of a board certified/eligible physician who has hospital admitting and/or delivery privileges and provides direct supervision to residents practicing in the certified ambulatory site, provide:

i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, primary care.

ii) In the case of clinics described in subsection (f)(1)(C) above, obstetric and specialty services.

iii) In the case of clinics described in subsection (f)(1)(D) above, primary care and specialty services;

C)B) Maintain a formal, ongoing quality assurance program that meets the minimum standards of the Joint Commission on Accreditation of Health Care Organizations (JCAHO);

D)B) Provide historical evidence of fiscal solvency and financial projections for the future, in a manner specified

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by the Department; and
E)F) Utilize a formal client tracking and care management system that affords timely maintenance of, access to, and continuity of medical records without compromising client confidentiality; and

G) In accordance with the terms of the Department's Healthy Moms-Healthy-Kids program manual and provider agreement for the applicable Healthy-Moms-Healthy-Kids managed-care clinic identified in subsection (f)(1) above, provide specific Healthy--Moms-Healthy--Kids--client assignment capacity proposals to the Department and agree to accept site-specific enrollment and primary care practitioner responsibility for a specified minimum number of:

i) in the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, clients assigned by the Department or its agent;

ii) in the case of clinics described in subsection (f)(1)(C) above, high-risk and/or non-compliant pregnant women assigned by the Department or its agent;

iii) in the case of clinics described in subsection (f)(1)(D) above, children assigned by the Department or its agent;

3) Special Participation Requirements

In addition to the Maternal and Child Health ~~Healthy-Moms-Healthy Kids~~ provider participation requirements described in Section 140.924(a)(1), and the general participation requirements described in subsection (f)(2) above, special participation requirements shall apply as follows:

A) Clinics described in subsections (f)(1)(A) and (f)(1)(B) above must:

i) Serve a total population that includes at least 20% Medicaid and medically indigent clients;

ii) Perform a risk assessment on pregnant women assigned to them in order to determine if the woman is at high risk; and

iii) Provide or arrange for specialty services when needed by pregnant women or children ~~Healthy--Moms-Healthy Kids-clients.~~

B) Clinics described in subsection (f)(1)(C) must:

i) Be a distinct department of a hospital that also operates as a Level II or Level III perinatal center;

ii) Provide services to pregnant women demonstrating the need for extensive health care services due to complicated medical conditions placing them potentially at high risk of abnormal delivery, including substance abuse or addiction problems. Hospital clinics will not qualify to participate

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unless they provide both primary and specialty services to women who currently are Medicaid clients, or Medicaid-eligible women who receive services at the COBACCs; in this capacity, COBACC's, as perinatal centers, shall serve also agree to accept assignment of pregnant women determined to be at high risk of abnormal delivery:

- iii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of obstetric emergencies;
- iv) Have an established program of services for the treatment of substance-abusing pregnant women;
- v) Integrate an accredited obstetrical residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved high-risk pregnant women; and
- vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.

C) Clinics described in subsection (f)(1)(D) above must:

- i) Provide primary and specialty services for children demonstrating the need for extensive health care services due to a chronic condition as described in Section 140.462(e)(3)(C) ~~---EPAGEs---shall---not---enroll children who receive specialty services from the EPAGE entity but receive primary care outside the EPAGE, and do not have a diagnosed condition contained in, but not limited to, those listed in Section 140.462(e)(3)(C)---requiring specialty services unless the child is the sibling of a EPAGE-eligible or enrolled individual;~~

- ii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of pediatric emergencies;

- iii) Provide access to necessary pediatric primary and specialty services within 24 hours after referral;

- iv) Be a distinct department of a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120(a)(5);

- v) Integrate an accredited pediatric or family practice residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved children with specialty needs; and

- vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.

4) Data Requirements

The Maternal and Child Health Healthy-Moms/Healthy-Kids-managed

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care clinics described in subsection (f)(1) above shall be required to submit patient level historical data to the Department, which may include, but shall not be limited to historical data on the use of the hospital emergency room department.

5) Certification Requirements

Certification of qualifying status of a Maternal and Child Health Healthy-Moms/Healthy-Kids-managed-care clinic identified in subsection (f)(1) above shall occur annually during the first two years of participation and every other year thereafter. In addition:

- A) The certification process shall consist of a review of the completed application and related materials to determine provisional certification status. Those centers submitting approved applications shall then be reviewed on-site by Department staff within 60 days after application approval. Final notification of certification status shall be rendered within 30 days after the site review, pending provider submittal of a written plan of correction for any deficiencies discovered during the entire application process.

- B) Entities interested in becoming a Maternal and Child Health Healthy-Moms/Healthy-Kids-managed-care clinic must direct a written request for an application packet to the following address:

Maternal and Child Health Clinic Managed-Care

Clinic Certification

Bureau of Hospital Services

Illinois Department of Public Aid

201 South Grand Avenue East, Concourse

Springfield, Illinois 62763-0001

- C) Certification status shall be suspended for Maternal and Child Health Healthy-Moms/Healthy-Kids-managed-care clinics identified in subsection (f)(1) above that do not submit data to the Department, as required under subsection (f)(4) above, within 180 days after the Department's request for the submittal of such data.

(Source: Amended at 20 Ill. Reg. 4345, effective

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Section 140.462 Covered Services in Clinics

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-based organized clinics:
 - 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health Healthy-Moms/Healthy-Kids

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~~managed-care~~ clinics, as described in Section 140.461(f)(1), covered services are those described in subsection (a) below, as appropriate.

2) With respect to all other hospital-based organized clinics, covered services are those described in 89 Ill. Adm. Code 148.

b) Encounter rate clinics:

1) With respect to those encounter rate clinics that qualify as Maternal and Child Health ~~Healthy-Moms/Healthy-Kids~~ providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.

2) With respect to all other encounter rate clinics, covered services are medical services which provide for the continuous health care needs of persons who elect to use this type of service.

c) Rural health clinics:

1) Physician's services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants.

2) Medically-necessary services and supplies furnished as an incident to a physician's professional services.

d) Federally Qualified Health Centers:

~~1) With-respect-to--those--providers--as--described--in--Section 140.924(a)(2)(A)--covered-services-are-those-described-in-Section 140.922:~~

2) ~~With-respect-to-all-other-FQHCs--covered~~ Covered services are the following services, when delivered in a clinic setting as described in 42 CFR 440.90 (1989):

~~1) A) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants; and:~~

~~2) B) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice, including:~~

~~A) medical case management;~~

~~B) laboratory services;~~

~~C) occupational therapy;~~

~~D) patient transportation;~~

~~E) pharmacy services;~~

~~F) physical therapy;~~

~~G) podiatric services for persons under 21 years of age;~~

~~H) psychological services;~~

~~I) services required to be provided by Section 329.330 or 340 of the Public Health Service Act;~~

~~J) speech and hearing services;~~

~~K) x-ray services;~~

~~L) health education;~~

~~M) dental services for persons under 21 years of age; and~~

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~~N) nutrition services.~~

e) ~~Maternal and Child Health Healthy-Moms/Healthy-Kids--Managed-Care Clinics:~~

~~Payment shall be made to the Maternal and Child Health Healthy-Moms/Healthy-Kids--managed-care clinics identified in Section 140.461(f)(1) for the following services when provided by, or under the direction of, a physician:~~

~~1) In the case of clinics described in Sections 140.461(f)(1)(A) and 140.461(f)(1)(B), primary care services delivered by the clinic, which must include, but are not necessarily limited to:~~

~~A) Early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;~~

~~B) Childhood risk assessments to determine potential need for mental health and substance abuse assessment and/or treatment;~~

~~C) Regular immunizations for the prevention of childhood diseases;~~

~~D) Follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as a result of an EPSDT screening;~~

~~E) Routine prenatal care, including risk assessment, for pregnant women; and~~

~~F) Specialty care as medically needed.~~

~~2) In the case of clinics described in Section 140.461(f)(1)(C), primary care and specialty services delivered by the clinic, which must include, but are not necessarily limited to:~~

~~A) Prenatal care, including risk assessment (one risk assessment per pregnancy);~~

~~B) All ambulatory treatment services deemed medically necessary, recommended, or prescribed by a physician as the result of the assessment; and~~

~~C) Services to pregnant women with diagnosed substance abuse or addiction problems.~~

~~3) In the case of clinics described in Section 140.461(f)(1)(D):~~

~~A) Comprehensive medical and referral services.~~

~~B) Primary care services, which must include, but are not necessarily limited to:~~

~~i) early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;~~

~~ii) regular immunizations for the prevention of childhood diseases; and~~

~~iii) follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as the result of an EPSDT screening.~~

~~C) Pediatric specialty services, which must include, at a minimum, necessary treatment for:~~

~~i) asthma,~~

~~ii) congenital heart disease,~~

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- iii) diabetes, and
iv) sickle cell anemia.
- D) Ambulatory treatment for other medical conditions as specified in the center's certificate application and as approved by the Department.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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Section 140.463 Clinic Service Payment

a) Hospital-Based Organized Clinics

- 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health ~~Health~~ ~~Health--Moms/Health--Kids~~ ~~managed--care~~ clinics, as described in Section 140.461(f)(1), payment shall be in accordance with Section 140.930 ~~140-464~~.
- 2) With respect to all other hospital-based organized clinics, payment shall be in accordance with 89 Ill. Adm. Code 148.140.

b) Encounter Rate Clinic. ~~1) Payment shall be made at the lesser of:~~

- ~~1) The clinic's approved all inclusive interim per encounter rate as of May 1, 1981; or~~
- ~~2) \$50.00 per encounter; or~~
- ~~3) the clinic charge to the general public.~~

~~2) Encounter-rate-clinics-that-qualify-as-Health-Moms/Health--Kids providers,--as-described--in--Section--140-924(a)(2)(B)7--shall receive--a--patient--management--fee--as--described--in--Section 140-930(b)7--in-addition--to--the--reimbursement--described--in subsection-(b)(1)--above.~~

c) Federally Qualified Health Centers (FQHC):

- 1) Medical Encounter Rate
- A) Payment for services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Freestanding Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid Supplemental Schedules A, B and C reflecting the actual costs of delivering encounter services as listed in Section 140.462(d) ~~(a)(4)~~.
- B) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these audits.
- C) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.
- D) Allowable costs will be updated to the midpoint of the rate

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year by an inflation factor derived from published economic indices.

- E) Interim payment for covered services rendered by FQHCs enrolled as of March 31, 1990, for which no audited costs are available shall be made at the individual FQHC rate in effect on March 31, 1990, as established by the Department.

- F) Interim payment for covered services rendered by FQHCs enrolled between March 31, 1990 and January 1, 1991, shall be made at the higher of:

- i) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Center or Federally Funded Health Center Services; or
- ii) the 75th percentile of the statewide range of the Department's established encounter clinic rates (as defined in subsection (a) above) as of March 31, 1990.

- G) Payment shall be made at the interim rate to FQHCs enrolled before January 1, 1991, for covered services rendered from the later of the date of enrollment or April 1, 1990, until the certified date of provider receipt of the cost-based rate established by the Department for that provider.

- H) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(1)(A) above, the Department shall reconcile interim payments made for covered services.

- i) Rate retroactivity from April 1, 1990, will only apply to clinics enrolled as of March 31, 1990, which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified.

- ii) If the cost-based rate is higher than the interim rate, the Department shall pay the provider the rate differential for each claim paid at the interim rate.

- iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate, either by direct payment to the Department or as a credit applied against future service claims.

- I) Interim payment for covered services rendered by FQHCs enrolled on or after January 1, 1991, shall be made at the higher of:

- i) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Centers and Federally Funded Health Centers Services; or
- ii) the median of the statewide range of the Department's established cost-based FQHC rates in effect at the time of enrollment.

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- J) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered services rendered between the date of enrollment and 30 days after the date of Department receipt of the complete and correct cost report of the provider. Payment for covered medical services rendered by the provider 30 days after Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate methodology.
- K) If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(1)(A) of this Section within 90 days of the certified date of receipt of the forms, the Department shall suspend payment for covered medical services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.
- L) Enrolled FQHCs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(1)(A) of this Section, within 90 days after the later of the end of the sixth month of operation or the certified mail date of receipt of the forms. The rate calculated from these costs will be in effect for services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.
- M) The Department will not process a claim for payment of FQHC services rendered after June 30, 1990, that does not indicate all individual medical services delivered during the encounter, by procedure code.
- 2) Dental Encounter Rate
- A) Payment for dental services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Freestanding Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid supplemental Schedules A, B, and C reflecting the actual costs of delivering dental services.
- B) Direct costs related to operation of the clinic in order to provide allowable dental services will be reported on the cost report and used in the rate calculation process.
- C) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these

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- audits.
- D) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.
- E) Allowable costs will be updated to the mid point of the rate year by an inflation factor derived from published economic indices.
- F) Payment for covered dental services shall be made by the Department's prepaid dental service contractor.
- G) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(2)(A) above, the Department's prepaid dental service contractor shall reconcile interim payments made for covered dental services.
- i) Rate retroactivity will only apply to clinics enrolled as of March 31, 1990 which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified.
- ii) If the cost-based rate is higher than the interim rate, the Department's prepaid dental service contractor shall pay the provider the rate differential for each claim paid at the interim rate.
- iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate.
- H) Interim payment for covered dental services rendered by FQHCs enrolled on or after January 1, 1991 shall be made at the median of the statewide range of the Department's established cost-based FQHC dental rates in effect at the time of enrollment.
- I) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered dental services rendered between the date of enrollment and 30 days after the date of the Department receipt of the complete and correct cost report of the provider. Payment for covered dental services rendered by the provider after 30 days of Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate.
- J) If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(2)(A) above within 90 days of the certified mail date of receipt of the forms, the Department's prepaid dental service contractor shall suspend payment for covered dental services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.

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K) Enrolled FQHCs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(2)(A) within 90 days after the later of the end of the sixth month of operation or the certified date of receipt of the forms. The rate calculated from these costs will be in effect for dental services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.

3) Rate Appeals Process

- A) All appeals of audit adjustments or rate determinations must be submitted in writing to the Department. Appeals submitted within 30 calendar days of the rate notification, if upheld, shall be made effective as of the beginning of the rate year. The effective date of all other upheld appeals shall be the first day of the month following the date the completed appeal was submitted. Appeals for any rate year must be filed before the close of the rate year.
- B) To be accepted for review, the written appeal shall include:
- The current approved reimbursement rate, allowable costs, and the additional reimbursable costs sought through the appeal;
 - A clear, concise statement of the basis for the appeal;
 - A detailed statement of financial, statistical, and related information in support of the appeal, indicating the relationship between the additional reimbursable costs as submitted and the circumstances creating the need for increased reimbursement;
 - A citation to any mandated or contractual requirement pertinent to the appeal; and
 - A statement by the provider's chief executive officer or financial officer that the application of the rate appeal and information contained in the vendor's reports, schedules, budgets, books, and records submitted are true and accurate.
- C) Rate appeals may be considered for the following reasons:
- Mechanical or clerical errors committed by the provider in reporting historical expenses used in the calculation of allowable costs.
 - Mechanical or clerical errors committed by the Department in auditing historical expenses as reported and/or in calculating reimbursement rates.
 - The Department and the provider have entered into a written agreement to amend, alter, or modify substantive programmatic or management procedures attendant to the delivery of services, which have a

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- Substantial impact upon the costs of service delivery. Substantial treatment service charges are required as a result of mandated regulatory charges.
- Substantial changes in the physical plant are required as a result of mandated licensure requirements reorganizations. In such instances, the provider must submit a plan of corrections for capital improvements approved by the licensing authority, along with the required cost information.

vi) State and/or Federal regulatory requirements have generated a substantial increase in allowable costs.

D) The Department shall rule on all appeals within 120 calendar days of receipt of the appeal except that, if additional information is required from the facility, the period shall be extended until such time as the information is provided.

E) Appeals shall be submitted to the Department's Bureau of Comprehensive Health Services, 3rd floor Bloom Building, 201 South Grand Avenue East, Springfield, Illinois 62763.

4) ~~PHHSs that qualify as Healthy Moms/Healthy Kids providers as described in Section 140-924(f)(2)(A) shall receive a patient management fee as described in Section 140-930(b) in addition to the reimbursement described in subsection (c)(1) above.~~

d) Maternal and Child Health Healthy Moms/Healthy Kids Managed Care Clinics: Payment shall be made in accordance with Section 140-930 140-464.

(Source: Amended at 20 Ill. Reg.

MAR 4 1996)

effective

4345

Section 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)

Payment for services provided by Healthy Moms/Healthy Kids managed care clinics, as described in Section 140-461(f)(1), shall be as follows:

a) In the case of clinics described in Sections 140-461(f)(1)(A) through 140-461(f)(1)(B) and 140-461(f)(1)(C), payment shall be in accordance with Section 140-930(a)(1) except for:

1) Those services that meet the definition of the Hospital Ambulatory Care Program as described in 89 Ill. Adm. Code 140-140(a)(3), which shall be reimbursed in accordance with 89 Ill. Adm. Code 140-140(a)(3).

2) End-stage renal disease treatment (ESRD) services, which shall be reimbursed in accordance with 89 Ill. Adm. Code 140-140(b) and

3) Those services provided by encounter rate hospitals as described in 89 Ill. Adm. Code 140-140(c), which shall be reimbursed in accordance with 89 Ill. Adm. Code 140-140(c).

b) In the case of clinics described in Section 140-461(f)(1)(B), payment shall be made as follows:

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Section 140.475 Medical Equipment, Supplies and Prosthetic Devices

- a) Payment for the provision of medical equipment, supplies and prosthetic devices shall be made to participating providers.
- b) Payment for medical equipment, supplies and prosthetic devices shall be made when:

- 1) they are essential to enable a client to remain at home or to function in the community; and
- 2) the client's physician has recommended in writing to the Department or in a patient care plan that the supplies or equipment be provided and that they are medically necessary; and
- 3) the Department has approved payment based on consideration of
 - A) the client's medical condition,
 - B) the benefits the item is expected to effect, and
 - C) the client's ability to adjust to and to use the item recommended, and

D) whether a communication device will increase the client's potential for full participation in health care by assisting in cause and effect awareness, or training physical movements or improving the client's understanding and comprehension of his or her health needs and responsibilities; and

- 4) the client is dually eligible for services from the Department of Public Aid and the Department of Rehabilitation Services and/or the Division of Specialized Services for ~~Enrolled~~ Children and meets the provisions outlined in subsections (b)(1), (2) and (3) above; or

- 5) The Individual Program Plan (IPP) of an individual with developmental disabilities residing in an ICF/MR or a long term care ~~an SRE~~ facility identifies the equipment, supplies and prosthetic devices which are necessary for his or her participation in active treatment as described in 42 CFR 483.410, Condition of Participation: Active Treatment Service.

- c) Payment shall be made for the repair of prosthetic devices and medical equipment owned by recipients if the item is out of warranty and the sum of the individual repair parts and the labor does not exceed 75 percent of the cost of a new unit. Labor charges are to be included in the repair price. A guarantee of at least 180 days must be provided. Charges shall not include tax, delivery, rebate, packaging or freight ~~age and condition of the device or equipment is such that the cost of repair is less than 75% of the cost of replacement.~~ The Department may agree to assume repair costs of a rented or loaned communication system if such an agreement is required by the manufacturer's or vendor's rental or loan terms.

- d) Payment shall be made for loaner items issued pending repair or replacement of prosthetic devices and medical equipment owned by recipients if it is the usual practice of the supplier to provide and charge for such items.

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- 1) Reimbursement for Non-Assigned Patients Covered Services as described in Section 140.420 shall be provided to Healthy Moms-Healthy Kids program clients that have not been assigned to the EPAGE by the Department for the agent shall be reimbursed in accordance with subsection (a) above.

- 2) Reimbursement for Assigned Clients

Except as indicated in subsections (a) through (b) below, covered services as described in Section 140.420 shall be reimbursed on an at-risk basis when rendered by the certified center or other certified EPAGE site owned and operated by a common corporate entity to these Healthy Moms-Healthy Kids clients assigned by the Department as its agent to that patient. EPAGE as the clients primary care practitioner, the at-risk basis shall be rate shall be calculated as follows:

- A) Newly certified EPAGEs shall be paid an encounter rate for covered services as described in Section 140.420 through (b) except as indicated in subsections (a) through (b) below. Payment to the Department shall be made on a median below basis to the Department as described in Section 140.420 through (b) for the Chicago Federally Qualified Health Center (FQHC) excluding those operated by a unit of city government.

- B) The rate shall be the rate covered services as described in Section 140.420 through (b) as indicated in subsection (a) through (b) below. Payment to the EPAGE shall be the effective date of the EPAGE Health Mom-Healthy Kids provider agreement with the Department.

- 3) Ambulatory surgery and diagnostic procedures included in the Department's Hospital Ambulatory Surgery and described in 89 Ill. Adm. Code 140.140 shall be reimbursed in accordance with 89 Ill. Adm. Code 140.140.

- 4) Costs associated with program services provided by the EPAGE with the exception of those previously covered shall be included in the construction with the procedures described in subsection (a) through (b) below. The EPAGE shall be reimbursed for the costs of the construction and the construction shall be included in the construction cost.

- 5) In addition to the reimbursement described in subsection (a) through (b) above, EPAGEs shall receive a bonus management fee as described in subsection (a) below.

- 6) Payment shall be made for the rate more than one encounter per client per day.
- 7) EPAGEs shall be annually established effective each January 1, and with no later than the end of the year-end recertification with agents.

(Source: Repealed, at 20 Ill. Reg. 4345, effective

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e) Covered services are:

- 1) Non-durable medical supplies for an individual's life maintenance care and treatment;
 - 2) Durable medical supplies essential to expedite a hospital discharge and to enable the person to be cared for at home;
 - 3) Prostheses and orthoses, including communication devices, which are essential to enhance functional mobility, medically necessary communication, or are essential for employment; and
 - 4) Respiratory equipment and supplies necessary as a life saving measure or for prevention of a medical emergency, institutionalization, or to facilitate deinstitutionalization.
- f) Payment shall be made for covered services on a prior approval basis, except for repair or replacement of medical equipment and prosthetic and orthotic devices, as provided under Section 140.477.

(Source: Amended at 20 Ill. Reg. 4345, effective 4/1/86)

Section 140.478 Prior Approval for Medical Equipment, Supplies and Prosthetic Devices

a) The following time frames shall be adhered to by the Department when prior approval is required for medical equipment and orthotic prosthetic devices (see also Section 140.40):

- 1) Decisions to approve or deny a request for prior approval of respiratory aid and equipment will be made within 30 days after of the date of receipt of the request by the Department. Prior approval is not required for the first 30 days of service.
 - 2) Decisions to approve or deny requests for artificial limbs and braces shall be made within 21 days after of the date of receipt of the request by the Department.
 - 3) Decisions to approve or deny requests for standard wheelchairs and hospital beds shall be made within 21 days after of the date of receipt of the request by the Department.
 - 4) Decisions to approve or deny requests for hearing aids, communication devices, custom molded shoes, shoe corrections, orthopedic shoes used in conjunction with a brace, and custom wheelchairs, shall be made within 30 days after the date of receipt of the request by the Department.
 - 5) Decisions to approve or deny requests for medical supplies costing less than \$100 shall be made within 21 days after of the date of receipt of the requests by the Department.
 - 6) Decisions to approve or deny requests for medical supplies costing more than \$100 shall be made within 30 days after of the date of receipt of the request by the Department.
- b) Post approval may be requested. Post approval will be granted in circumstances when prior approval could not be requested, such as:
- 1) determination of the patient's eligibility for public assistance

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was delayed;

- 2) emergency approval could not be obtained;
 - 3) other third party resources denied payment.
- ~~and the requirements for prior approval are met.~~

(Source: Amended at 20 Ill. Reg. 4345, effective 4/1/86)

Section 140.481 Payment for Medical Equipment, Supplies and Prosthetic Devices

a) Payment for Medical Equipment. Medical equipment is durable, reusable equipment such as wheelchairs, hospital beds, canes, walkers, etc. Payment for medical equipment is made for covered items or services at the lesser of the provider's charge or the acquisition cost. The initial acquisition cost for each item of medical equipment is the median suggested retail price from the prices taken from the manufacturers' most recent price catalogues for widely accepted quality items. Widely accepted quality items are items which are not below average quality for like medical equipment and which are available statewide. After the initial acquisition cost for each item of medical equipment is determined, as specified above, the Department shall review the most current catalogues from which the initial price was taken, and update the acquisition costs at least annually.

b) Medical supplies are medical items which are not durable or reusable such as surgical dressing, disposable syringes, catheters, urinary bags, etc.

1) Payment is made for covered items at the lesser of the provider's charge, or the acquisition cost. The acquisition cost is the suggested retail price (as determined below) whenever available, or manufacturer's price plus 50 percent 50% as derived from the most widely distributed catalogue available.

2) The suggested retail price is determined as follows:

- A) the median suggested retail price for each medical supply item is derived from all available medical supply catalogues; and
 - B) the catalogue that contains 60 percent 60% or more of the median prices is chosen to determine the suggested retail price of all medical supply items.
- 3) Acquisition costs will be reviewed and updated for price changes at least annually.
- c) Payment for Prosthetic and Orthotic Devices. Prosthetic and orthotic devices include corrective or supportive devices prescribed to artificially replace a missing portion of the body or to prevent or correct physical deformity or malfunction, or to support a weak or deformed portion of the body ~~are artificial limbs and braces~~. Payment is made for covered items or services at the lesser of the provider's charge or the acquisition cost. The acquisition cost is determined by taking the average of the prices for each prosthetic device from all

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available prosthetic device catalogues after deleting the high and low prices. Acquisition costs will be reviewed and updated for price changes at least annually.

(Source: Amended at 20 Ill. Reg. 4345, effective _____)

Section 140.485 Healthy Kids Program**a) Program Description**

1) The Healthy Kids Program is the Early and Periodic Screening, Diagnosis and Treatment Program mandated by the Social Security Act (see 42 U.S.C. 1396a(43), 1396d(4)(B)(Supp. 1987)).

The goals of the program are to:

- A) improve the health status of Medicaid-eligible children ages birth through 20 years through the provision of preventive medical care and early diagnosis and treatment of conditions threatening the child's health; and
- B) reduce the long term costs of medical care to eligible children.

2) The Department strives to achieve these goals by offering the following services at no cost to an eligible child, except as may be limited by a spend down requirement:

- A) periodic and interperiodic health, vision, hearing and dental screening services to meet the health care needs of children (see Section 140.488(a) through (d));
- B) immunizations against childhood diseases (see Section 140.488(e));
- C) diagnostic laboratory procedures as described in Section 140.488(f);
- D) further diagnosis or treatment necessary to correct or ameliorate defects and physical or mental illnesses or conditions which are discovered or determined to have increased in severity by a provider as the result of a periodic or interperiodic health, vision, hearing or dental screening;
- E) referral for dental care beginning at age two; and
- F) assistance in locating a provider, scheduling an appointment and in arranging transportation to and from the source of medical care.

3) The Department also strives to protect each eligible person's right to freedom of choice regarding participation and selection of a health care provider and the right to continuity of care.

b) Eligibility. Services are available to those persons listed in Section 140.3, except that such persons must be under 21 years of age at the time of receiving such services.

c) Provider Participation. Providers of Healthy Kids services must be duly licensed or certified according to applicable Federal or State

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law or rule and be enrolled in the Illinois Medical Assistance Program to provide one or more Healthy Kids Program services as authorized in Title XIX of the Social Security Act and the Illinois Medical Assistance Program State Plan (as set forth in 140.11 thru 140.835).

d) Program Activities and Services

- 1) Informing Clients. The Department shall inform eligible persons in writing about the benefits of preventive health care, the services which are available, and procedures by which eligible persons may request and receive assistance in identifying an enrolled provider, scheduling an appointment or arranging transportation to and from the source of medical care. Effective July 1, 1990, the Department shall also notify Medicaid-eligible pregnant women, postpartum women during the six months after termination of pregnancy, women up to one year postpartum who are breastfeeding their infants or children below the age of five years of their potential eligibility for receiving services through the Special Supplemental Food Program for Women, Infants and Children which is administered by the Illinois Department of Public Health (IDPH). The informing of eligible persons shall be done as described in the Timeliness Standards contained in Section 140.487.

2) Periodic Medical Screenings. The Department will pay for a series of periodic medical screenings scheduled from a person's birth through age 20. The Periodicity Schedule of screenings is contained in Section 140.488. The Department will pay for additional health screenings when necessary for:

- A) enrollment in school; or
- B) enrollment in a licensed day care program, including Headstart; or
- C) placement in a licensed child welfare facility, including a foster home, group home or child care institution; or
- D) attendance at a camping program; or
- E) participation in an organized athletic program; or
- F) enrollment in an early childhood education program recognized by the Illinois State Board of Education; or
- G) participation in a Women, Infant and Children (WIC) program; or
- H) is requested by a child's parent, guardian or custodian, or is determined to be necessary by social services, developmental, health, or educational personnel.

3) Dental Screenings

A) Dental services shall include services for relief of pain and infections, restoration of teeth, and maintenance of dental health, including instruction in self care oral hygiene procedures.

B) Eligible persons shall be referred for dental screenings beginning at age two if the person is not in the continuing care of an enrolled dental provider, except that a child

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younger than age two years may be referred for dental services when any health screening indicates the need for dental services.

- C) The periodicity schedule for dental screening services is contained in Section 140.488. The Department will pay for one dental screening per age period unless a second screening is medically necessary.

4) Vision Screening

- A) The Department will pay for vision screening services, and diagnosis and treatment for defects in vision, including glasses.

- B) The periodicity schedule for vision screenings is contained in Section 140.488. The Department will pay for one vision screening per age period, except when a second screening is determined to be medically necessary.

- 5) Hearing Screening. The Department will pay for hearing screenings and diagnosis and treatment for defects in hearing, including hearing aids. The periodicity schedule for hearing screenings is contained in Section 140.488. The Department will pay for one hearing screening per age period, except when a second screening is determined to be medically necessary.

- 6) Immunizations. The Department will pay for the immunization of eligible children against childhood diseases. The list of covered immunizations is contained in Section 140.488(b).

7) Diagnostic Procedures

- A) Lead Screening
- i) The Department requires that lead screening shall be performed in compliance with the "Lead Poisoning Prevention Act, Public Act 87-175", as amended, effective January 1, 1992. Children between the ages of six months to six years should be screened for lead poisoning at priority intervals. Screenings and medical follow up shall be performed in accordance with the "Guidelines for the Detection and Management of Lead Poisoning for Physicians and Health Care Providers", published by the Illinois Department of Public Health. These guidelines recommend that those children at highest risk be screened on a regular basis. High risk environmental situations include housing built before 1978, housing which is being renovated or remodeled, or which is in deteriorating condition. Children six years and older shall also be screened, where medically indicated or appropriate.

- ii) The Department will pay for lead screening as indicated in subsection (d)(7)(A)(i) above or as required for admission by a day care center, day care home, preschool, nursery school, kindergarten, or other child care facility or educational facility

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licensed by the State.

- iii) The Department will pay for epidemiological study of the child's living environment when the child has been diagnosed as having an elevated blood lead level for the purpose of identifying the source of lead exposure.

- B) The Department will pay for the administration of all other medically necessary diagnostic procedures performed during or as the result of medical screenings.

- 8) Treatment. The Department shall pay for necessary medical care (see Section 140.2), diagnostic services, treatment or other measures medically necessary (e.g., medical equipment and supplies) to correct or ameliorate defects, and physical and mental illnesses and conditions which are discovered or determined to have increased in severity by medical, vision, hearing or dental screening services.

- 9) Assistance Services. The Department shall, upon request, provide assistance to eligible children and their parent, guardian or custodian to locate a provider, schedule an appointment or arrange transportation to and from the source of medical care.

- 10) Timeliness Standards. The Timeliness Standards in Section 140.487 will govern the completion of required activities and services.

e) Reimbursement to Providers

- 1) Fee-for-service. Provider's enrolled in the Maternal and Child Health Program ~~Healthy-Moms/Healthy-Kids-program~~, as described in Subpart G, will receive enhanced rates for certain services, as described in Section 140.930(a)(1). Payment will be made at the provider's usual and customary charges or the established Department rate(s) (see Section 140.400), whichever is less, for providers not enrolled in the Maternal and Child Health Program ~~Healthy-Moms/Healthy-Kids-program~~. Reimbursement for the administration of immunizations to an eligible person will be made at rates established by the Department. The provider will receive replacement vaccines as explained in subsection (e)(3) below.

- 2) Claims. Claims for reimbursement shall be submitted on the form and in a manner specified by the Department.

- 3) Vaccine Replacement Program. When a provider administers an immunization to an eligible child, the vaccines ~~vaccines~~ are replaced to the provider through the Vaccine Replacement Program which is administered jointly by the Department and the IDPH. Providers must be annually certified for participation in the Vaccine Replacement Program by IDPH before receiving replacement vaccines. Information on the Vaccine Replacement Program and certification procedures (set forth at 42 CFR 51b), may be obtained by contacting:

Immunization Vaccine Replacement Program

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Illinois Department of Public Health
525 West Jefferson Street
Springfield, Illinois 62761

f) Limitations on Services. Services under the Healthy Kids Program shall only be available to persons in the age groups from birth through age 20. Coverage of and payments for services shall be consistent with the requirements of Section 1905 of the Social Security Act (42 U.S.C. 1366d) as it relates to the Early and Periodic Screening, Diagnosis and Treatment Program.

g) Record Requirements. The provider shall comply with record requirements as set forth in Section 140.28.

(Source: Amended at 20 Ill. Reg. 4345, effective 4/24/95)

SUBPART E: GROUP CARE

Section 140.642 Screening Assessment for Long Term Care and Alternative Residential Settings and Services

a) Prior to the authorization of payment by the Department of Public Aid, for the care of an individual who is already residing in a facility and is newly approved for Medicaid benefits or is an applicant for or client of Medicaid services when admitted into a facility (SNF, ICF or ICF/MR) which provides long term care services, the individual's need for such services must be:

1) assessed through either the Department on Aging (DOA) (individuals age 60 or over) or the Department of Rehabilitation Services (DORS) (individuals between the ages of 18 and 59) and certified by a licensed physician (Section 140.514). Individuals who need nursing facility care and do not appear to have developmental disabilities (DD) or mental illness (MI), as determined by a Level I Identification (ID) Screen (see subsection (e)(1) of this Section), are assessed through DOA and DORS; or

2) assessed through the Department of Mental Health and Developmental Disabilities (DMHDD) and certified by a licensed physician (Section 140.514). Individuals who appear to have DD or MI, as identified by a Level I ID Screen, are assessed through DMHDD designated preadmission screening (PAS) agents according to a comprehensive assessment, the Level II assessment (see subsection (e)(2) of this Section). In the case of an individual with DD who is determined to be eligible for ICF/MR services, the physician certification must be in accordance with Medicaid standards which identify assessment criteria used to establish the need for services in a facility for persons with DD (42 CFR 435.1009).

Agency Note: The acronym ICF/MR which is used in this Section

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includes ICF/MR less than 16, ICF/MR with a SNF/PED license, specialized living centers and DMHDD State developmental centers. The term DD means mental retardation or a related condition.

b) A Level I ID screening assessment (see subsection (e)(1) of this Section) and a Level II assessment (see subsection (e)(2) of this Section) conducted by a DMHDD PAS agent or a Determination of Need (DON) conducted by a DOA or DORS agent (see subsection (e)(3) of this Section), whichever is applicable, are required for an individual that is an applicant for or a client of Medicaid services, including the individual who is enrolled as a Medicaid spenddown case, who:

1) is residing in a SNF, ICF or ICF/MR at the time of becoming eligible for Medicaid benefits and an assessment has not occurred during the 60 days prior to such eligibility;

2) is an applicant for or client of Medicaid services, requests to be admitted to a SNF, ICF or ICF/MR, and did not previously reside in a facility (except as described in subsections (c) and (d) of this Section);

3) is absent from a SNF, ICF or ICF/MR for a period of 30 days or more, and the reason for the absence was not to receive medical services;

4) has a developmental disability and transfers between facilities at the same or different level of care; or

5) is currently residing in Illinois and is approved by the Department for placement in an out-of-state facility.

c) A screening assessment is not required for an individual who:

1) will be receiving sheltered care services; or

2) is an Illinois resident and is approved for placement by the Department in an out-of-state facility, when already residing or placed (i.e., a hospital) in that state.

d) A new screening assessment is not required for an individual who is currently eligible for ICF, SNF or ICF/MR services and who:

1) is absent from the facility for less than 30 days and returns to the same level of care at the same facility;

2) is absent from the facility for 30 days or more to receive inpatient hospital services and returns from the hospital to the same level of care at the same facility;

3) is absent from the facility for 30 days or more for therapeutic leave (Section 140.523) approved by the Department and returns to the same level of care at the same facility.

e) Screening Assessment

1) The Level I ID Screen is the first phase of the preadmission screening process. This screening process must be completed for all Medicaid or Medicaid eligible individuals who enter long term care facilities. The screening process is conducted to determine if there is a reasonable basis for suspecting that an applicant has DD or severe MI. This determination is required to assure that individuals with DD or severe MI are placed into settings which provide the services they require. Entities authorized to

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complete the Level I ID Screen are agents of DMHDD, DOA, DORS, hospitals, or nursing facilities.

- 2) If the Level I ID Screen indicates that an individual may have a DD or severe MI, a comprehensive assessment, the Level II assessment, is conducted by DMHDD designated PAS agents concerning the need for nursing facility services and the need for specialized services. Categorical determinations may be made that individuals with dementia, which exists in combination with mental retardation or a related condition, do not need specialized services. The individual who has been determined to be DD and who is age 60 or more may elect not to receive specialized services. The individual is then referred to DOA for screening following the Level II assessment.

- 3) If the Level I ID Screen does not identify a reasonable basis for suspecting a DD or severe MI, the applicant is referred to DOA or DORS for a DON to assess the need for nursing facility services if there is a possibility that the applicant requires the services of a nursing facility.

- 4) Due to exceptional circumstances, an individual identified as having DD or MI, following a Level I ID Screen, may be determined to need nursing facility services. The individual with exceptional circumstances must then receive a Level II assessment to determine the individual's need for specialized services before placement in a nursing facility, except in the specific circumstances noted in subsection (e)(5) of this Section. Exceptional circumstances include, but are not limited to:

- A) terminal illness with a life expectancy of six months or less;
 - B) convalescent care (a medically prescribed period of recovery, following acute care, not to exceed 120 days);
 - C) severe physical illnesses, such as coma, ventilator dependence, functioning at brain stem level or diagnoses such as chronic obstructive pulmonary disease, Parkinson's disease, Huntington's disease, amyotrophic lateral sclerosis, and congestive heart failure; and
 - D) a diagnosis of dementia, including Alzheimer's disease or a related disorder, in the case of the individual with DD.
- 5) Exceptional circumstances, Level II assessment exemption. Some individuals with DD or severe MI may be admitted to a nursing facility without receiving a Level II assessment to determine the need for specialized services by a DMHDD PAS agent. Certification by a physician must document the need for nursing facility services as specified in subsection (a)(1) of this Section. The exceptional circumstances which are exempt from determination of need for specialized services are provisional admissions pending further assessment in cases of delirium where an accurate diagnosis cannot be made until the delirium clears.
- 6) In all other cases, a determination that specialized services are

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not needed must be based on a Level II assessment.

- f) Designated Screening Agents
 - 1) DMHDD or its designated PAS agents shall perform a Level II assessment for applicants for long term care for whom there is a reasonable basis to suspect mental retardation or related conditions, or severe MI.

A) Mental retardation and related disorders shall include those conditions meeting the criteria described in subsection (g) of this Section and Section 140. Table H.

- 1) DMHDD PAS agents who have screened an applicant found to have mental retardation or a related condition, in need of specialized services, may authorize eligibility for placement into an ICF/MR level of care, or refer the applicant to a State operated ICF/MR, a home and community-based waiver program for persons with developmental disabilities, or other community residential settings such as a Community Integrated Living Arrangement (CILA) which is under the direction and oversight of DMHDD. Individuals who require both nursing facility services and specialized services may be authorized for eligibility for placement into an ICF/MR only.
- ii) When the assessment indicates the applicant requires the services of a nursing facility and cannot participate in specialized services due to exceptional circumstances (see subsection (e)(4) of this Section), the DMHDD PAS agent may authorize eligibility for the placement.
- iii) For the individual with mental retardation or a related condition, a Qualified Mental Retardation Professional (QMRP) (89 Ill. Adm. Code 144.275 (b)(1)) serves as the DMHDD PAS agent who summarizes the final screening assessment and authorizes eligibility for placement.
- iv) The particular placement identified for any applicant will depend upon the identified program's capacity to meet the individual's need for specialized services and, if present, medical/health needs.
- v) An individual with DD whose overall level of functioning is in the mild range of mental retardation and who is generally independent does not need specialized services and may not be placed into an ICF/MR or in a home and community-based waiver setting. Other community residential options are appropriate for such individuals.

B) Severe MI is described in subsection (i)(2) of this Section.

- i) DMHDD PAS agents who have screened an applicant found to have severe MI may authorize eligibility for

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placement into a SNF or ICF level of care or refer the applicant to other community residential settings if the applicant has need of psychiatric rehabilitation services, or refer the applicant to an inpatient psychiatric facility for persons with severe MI who need specialized services (see subsection (1)(5) of this Section).

ii) For the individual with severe MI, a Qualified Mental Health Professional (QMHP) serves as the DMHDD PAS agent who summarizes the final screening assessment and authorizes eligibility for placement.

iii) Applicants who require the services of a nursing facility and are in need of psychiatric rehabilitation services shall be referred to programs which are competent to provide psychiatric rehabilitation services in accordance with 89 Ill. Adm. Code 147.300 through 147.349.

2) DORS staff or its designated agents will screen all applicants for ICF or SNF services, between the ages 18 and 59, who do not meet the criteria for screening and placement by DMHDD PAS agents. An applicant screened by DORS or its designated agents, who is suspected of having DD or severe MI, must be referred to a DMHDD PAS agent for a Level II assessment before placement into a facility or authorization for a DORS home and community-based waiver setting. When an applicant is determined not to have a DD requiring specialized services or severe MI following a Level II assessment, he/she will be referred to DORS for placement. When it is determined that an applicant has DD requiring specialized services or severe MI following a Level II assessment, DMHDD may authorize his/her eligibility for placement into an appropriate setting.

3) DOA or its designated agents will screen all applicants for ICF or SNF services age 60 or over who do not meet the criteria for screening by DMHDD PAS agents. An applicant screened by DOA or its designated agents, who is suspected of having DD or severe MI, must be referred to a DMHDD PAS agent for a Level II assessment before placement into a facility or authorization for a DOA home and community-based waiver setting. When an applicant is determined not to have a DD requiring specialized services or severe MI following a Level II assessment, he/she will be referred to DOA for placement. When an applicant is determined by a Level II assessment to have a severe MI or DD, DMHDD may authorize his/her eligibility for placement into an appropriate setting.

4) No screening agent may limit an eligible applicant's opportunity to receive services from any facility appropriately certified and licensed to provide those services, or any community residential setting appropriate to provide them.

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5) DPA, as the State Medicaid agency, bears ultimate responsibility for the proper operation of the Preadmission Screening and Annual Resident Review program in Illinois. Therefore, DPA may withdraw screening authority from an individual agent if it determines that the agent is not accurately applying screening criteria or conforming to procedures as described in this Section. In such an event, DPA will first request the responsible Department to implement corrective actions. If the screening agent remains out of compliance 90 days following this request, DPA may designate an alternative agent to conduct screenings until the affected agent implements a plan of correction acceptable to DPA or the associated Department designates a new agent.

g) Need for ICF/MR Services

1) The need for ICF/MR services shall be established through a comprehensive assessment, the Level II assessment, that demonstrates that the individual needs active treatment and has either: mental retardation or a related condition manifested before age 22, which is likely to continue indefinitely, and results in functional limitations so substantial that the individual performs at or below the eight-hour level in three or more of the six areas of major life activity as set forth in Section 140.140; or a related condition which can include autism, cerebral palsy, and seizure disorders, but do not include mental limitations with respect to mental retardation and related conditions are not limitations which are attributable to mental illness.

A) mental retardation; or

B) a related condition that meets all of the following:

i) A condition that is attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness or infirmities of aging, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons.

ii) A condition that is manifested before the person reaches age 22.

iii) A condition that is likely to continue indefinitely.

iv) A condition that results in substantial functional limitations in three or more of the following areas of major life activity - self care, understanding and use of language, learning, mobility, self direction, capacity for independent living.

2) Active treatment is defined by federal regulations at 42 CFR 483.440(a) as a program of specialized and generic training, treatment, health services and related services, that is directed

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toward the acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible and the prevention or deceleration of regression or loss of current optimal functional status. Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of continuous active treatment program.

(b)(2) No applicant for ICF/MR services meeting the above criteria and the criteria in Section 110.14(b)(1) shall be found to be inappropriate for such services due to a need for the treatment of a severe or profound sensory handicap, motor deficit, or mental retardation; nor shall such an applicant be denied ICF/MR services due to age, medical needs, or maladaptive behavior, except as otherwise described in this Section.

h) Need for ICE/MPR (SNF/PED License) Services

1.1) ICF/MR (SNF/PED license) services will only be approved for individuals who are under the age of 21 at the time of admission to the facility.

2) The need for such services shall be established through a comprehensive assessment, the Level II assessment, that demonstrates that the individual has a medical (physical) condition requiring skilled level nursing care; or has mental retardation or a related condition and/or a severe medical or physical disability or a combination of severe disabilities.

- ii) **Need for Nursing Facility Services:** The need for nursing facility services shall be established by an assessment (a DON, see subsection (e)(3) of this Section, or a Level II assessment, see subsection (e)(2) of this Section).

1) In Illinois, nursing facilities are licensed for intermediate level nursing care and skilled level nursing care.

A) Intermediate (ICF) level nursing care is that needed for mental or physical conditions which do not require hospital or skilled nursing facility care, but do require services that are above the level of room and board, prevent independent living in the absence of such care and can be made available only through institutional facilities. Individuals with stabilized conditions requiring basic nursing care or other restorative services under periodic medical direction are appropriate for intermediate level care.

B) Skilled (SNP) level nursing care is that needed for medical conditions requiring 24-hour nursing care or intensive medical treatment, such as care for post-operative or bedfast patients, and care for those in need of special medical equipment or constant monitoring by a professional nurse. A need for a high level of personal care assistance does not meet the criteria for skilled level care.

2) Need for Psychiatric Rehabilitation Services in Nursing

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Facilities: Individuals admitted into a nursing facility are screened by a DMHDD PAS agent who determines that, because of the individual's severe MI he/she can derive benefit from placement into a nursing facility. The need for psychiatric rehabilitation services shall be established through a Level II assessment, which includes a diagnosis that the individual has a severe MI (and does not have a primary diagnosis of dementia, including Alzheimer's disease or a related disorder), resulting in substantial functional limitations for that individual which necessitate psychiatric rehabilitation services. Diagnoses that constitute a severe MI are:

- A) Schizophrenia, including:
 - i) Catatonic
 - ii) Disorganized
 - iii) Paranoid
 - iv) Undifferentiated
 - v) Residual
 - B) Delusional (Paranoid) Disorder
 - C) Schizoaffective Disorder
 - D) Psychotic Disorder, not otherwise specified (atypical psychosis)
 - E) Bipolar Disorders
 - i) Bipolar Disorder - Mixed, Manic, and Depressed
 - ii) Cyclothymia
 - iii) Bipolar Disorder not otherwise specified
 - F) Major Depression, recurrent
- Individuals with severe MI who are eligible for psychiatric rehabilitation services, exhibit substantial functional limitations which necessitate 24-hour a day supervision due to the need for:

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transportation, traveling from residence independently, recognizing and avoiding common dangers, and use of community services.

- iv) Work Related Skills - Job retention behaviors (i.e., tardiness, absenteeism, relationships with co-workers/supervisors, work quality and quantity, ability to accept, understand and carry out instructions), job seeking skills (i.e., ability to initiate and schedule own activities, ability to seek employment, completing an application, personal appearance, communication and interviewing skills, ability to set realistic vocational goals), basic reading, writing and arithmetic skills.

- 4) Psychiatric rehabilitation services are designed to increase the individual's ability to function with as much self-determination and independence as possible. These services are individualized and begin with a diagnostic evaluation and a comprehensive functional assessment of the individual's strengths and needs. The assessment process leads to the development of a Comprehensive Care Plan (CCP). The CCP outlines the services needed, the persons responsible for the delivery of services and the process of reevaluating the plan.

- 5) Individuals with diagnoses of severe MI who would not be appropriate for nursing facility services include:

- A) Individuals with severe MI whose symptomatology is so acute or severe that they require specialized services in an inpatient psychiatric program.
- B) Individuals with severe MI who do not require the intensity of psychiatric rehabilitation services which are provided in a nursing facility setting. These individuals usually require less intensive treatment which is available through community mental health center services.

j) Date of Payment

- 1) A screening assessment is valid for 60 days from the date of the assessment. For individuals with DD or severe MI, an existing Level II assessment may remain valid after 60 days when the QMRP or QMRP respectively updates any component(s) of the assessment which is/are not current, and confirms the validity of the assessment as reliably reflecting the status of the individual. Additional assessments may be conducted within any 60 day period:
- A) If the screening agent judges that it is merited by a change in the individual's medical or developmental status, or
- B) In the event that an assessment has not been conducted properly or by the appropriate authorized screening agent, or
- C) If the individual appeals the screening assessment decision.

- 2) No payment for long term care services may be made unless both the screening assessment and a physician's certification, as

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described in Section 140.514, document a need for such care. Where the assessment and the certification do not establish this need, the individual may request a licensed physician designated by the Department, to review the medical reports and any other evidence the individual wishes to submit, and certify that there is a need for long term care in the individual case. The individual will be notified of his/her right to this review.

- A) For an applicant for long term care services whose preadmission screening assessment and physician's certification have been completed, prior to admission and document the individual's need for such services, the Department will begin payment:

- i) on the date of admission if Medicaid eligibility has been established, or
- ii) on the effective date of Medicaid eligibility if such eligibility is not established prior to admission.

- B) For an individual who applies for Medicaid after admission to a facility:

- i) It is the facility's responsibility to immediately initiate screening activities by contacting the appropriate screening agent. Agents are required to complete screening assessments in such circumstances within 30 calendar days after the initial screening referral.
- ii) If the screening assessment and physician certification are completed within 30 days after Medicaid application, payment will be made from the effective date of Medicaid eligibility.
- iii) If for any reason including a failure on the part of the facility to contact an appropriate screening agent, the screening assessment does not occur within 30 days after Medicaid application, the Department will not begin payment until the date that the screening assessment does occur, the date that the physician certification requirement is met, or the effective date of Medicaid eligibility, whichever is later.

- C) For an individual who applies for Medicaid before admission to a SNF, ICF or ICF/MR, and the screening assessment and physician's certification requirements are met within 30 calendar days after admission, payment will be made:

- i) on the date of admission, or
- ii) on the effective date of Medicaid eligibility, whichever is later.

- D) For an individual who applies for Medicaid before admission to a SNF, ICF or ICF/MR, and the screening assessment and/or physician certification requirements are not met within 30 calendar days after admission, payment will be made:

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- i) upon the date that the screening assessment requirement is met, or
- ii) upon the date that the physician certification requirement is met, or
- iii) on the effective date of Medicaid eligibility, whichever is later.

(Source: Amended at 20 Ill. Reg. 4345, effective

SUBPART G: MATERNAL AND CHILD HEALTH HEALTHY-MOMS/HEALTHY-KIDS PROGRAM

Section 140.900 Reimbursement For Nursing Costs For Geriatric Residents In Group Care Facilities (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 147.5 at 12 Ill. Reg. 6956)

Section 140.920 General Description

- a) The Maternal and Child Health Healthy-Moms/Healthy-Kids Program is a primary health care program coupled with case management services for Medicaid enrolled pregnant women and children. The program is designed to ensure access to quality health care services statewide by linking pregnant women and children through age 20 with a primary care provider or an HMO who will be responsible for providing primary care and arranging for care in some areas of the State authorizing specialty care. Although the Healthy-Moms/Healthy-Kids Program is available on a statewide basis, certain components of the program as described in subsection (b)(1) below will not initially be implemented on a statewide basis.

b) Program Components

- i) Managed-Care-Component
- The Healthy-Moms/Healthy-Kids Program shall include a managed care component as described in Section 140.922(b) which shall be in place for citizens who reside in a zip code served by a local public aid office located in the City of Chicago. The managed care component requires all pregnant women and children who fall in certain categories of Medicaid Assistance as described in Section 140.926(a)(1) to choose a Primary Care Provider (PCP) from the listing of provider types described in Section 140.922(b)(3). Under the managed care component, the monitoring and health care and utilization of non-emergency services, in accordance with Section 140.922(b)(3):

ii) Case Management Component

The Maternal and Child Health Healthy-Moms/Healthy-Kids Program shall also include a case management component which shall be in place statewide. Under the case management component, pregnant women and

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infants children under the age of 12 months *x will be provided with case management services, as described in Section 140.992(c), by a community-based case management agency that will be responsible for assisting the client in accessing health care and support services necessary to comply with their physicians' recommendations. Such case management services will be provided through age five years for DCFS wards.

3) Enhanced-Reimbursement-Component

- c) The Maternal and Child Health Healthy-Moms/Healthy-Kids Program is designed to increase provider participation through special incentives for providers for certain services provided to pregnant women and children under age 21. These include increased payment rates for selected services, as described in Section 140.930, and expedited payment. To participate in the program, providers must meet specific participation requirements, as described in Section 140.924, and sign a Maternal and Child Health Healthy-Moms/Healthy-Kids provider agreement, in addition to being enrolled as a Medicaid Provider. Under the Maternal and Child Health Program the Department agrees to:

- 1) Pay enhanced rates for prenatal risk assessment, which includes substance abuse information.
 - 2) Pay enhanced rates for delivery services.
 - 3) Pay enhanced rates for primary care office visits and screening services provided to children.
 - 4) Provide prospective payment or expedited processing of claims for physicians who request special processing.
 - 5) Upon request of medical providers, furnish client eligibility and profiles of prior services reimbursed by the Department.
 - 6) Facilitate access to medical care for clients in cooperation with the physician and case management entity.
- d) Those clinics which were enrolled under the Healthy Moms/Healthy Kids Program shall be deemed certified in the Maternal and Child Health Program.

- e) Those providers enrolled under the Healthy Moms/Healthy Kids Program shall be deemed certified in the Maternal and Child Health Program.

(Source: Amended at 20 Ill. Reg. 4345, effective

Section 140.922 Covered Services

- a) Medical Services
- All services covered under the Illinois Medical Assistance Program shall be available to recipients participating in the Maternal and Child Health Healthy-Moms/Healthy-Kids Program.
- b) Primary-Care-Physician-Services
- i) Geographic areas covered by the Managed-Care-Component in areas covered by the managed-care component as described in Section 140.924(a)(1) citizens will be required to select a

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Primary Care Provider (PCP) in these areas: Medicaid-enrolled pregnant women and children under age 21 must choose a single primary care provider (PCP) who may be a regular doctor, a Department-approved nurse or a Health Maintenance Organization (HMO), as described in subsection (f)(3) below. For those choosing a physician or either of the primary health care will be provided by the PCP. The PCP may authorize another provider to render services outside the PCP's scope of practice. Clients eligible for case management services as described in subsection (f) below will be assigned to the case management agency designated to work with their chosen PCP.

2) Clients will be enrolled with their chosen physician or clinic provider indefinitely with an option to make a different choice every six months. Providers will receive a monthly patient management fee for each client enrolled with them. Physicians may participate independently as part of an approved clinic through the managed care component. Clients are encouraged to establish a continuing relationship with a single provider. The PCP is responsible for coordinating and monitoring the client's care and institution of non-emergency services. The PCP must provide primary care directly and must authorize all referrals to specialists as ordered in Section 140-932. Participants may select a PCP from one of the following provider types:

A) Primary care physicians who meet criteria as cited in Section 140-932(f)(1).

B) Federally Qualified Health Centers (FQHCs) as described in Section 140-932(f)(2) that meet the additional requirements described in Section 140-932(f)(3)(A).

C) Encounter Rate Clinics as described in Section 140-932(f)(3)(B) and that meet the additional requirements described in Section 140-932(f)(3)(C).

D) Healthy Moms/Healthy Kids Managed Care Clinics as described in Section 140-932(f)(4).

4) Clients living outside an area with a managed care component will not be enrolled with a state provider as described above. Unless enrolled with a Health Maintenance Organization (HMO), Medicaid clients will not be required to receive primary health care services from a state provider but will be encouraged to do so. Providers will refer clients for needed specialty care but will not be required to authorize these services. Providers in areas without the managed care component will not receive the monthly patient management fee but will receive the same enhanced rates provided to those who serve in areas where the Managed Care Program has been implemented.

b) Case Management Services

Case management for Medicaid recipients is defined as a function necessary for the proper and efficient operation of the Medicaid State

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Plan, Case management services will be provided to pregnant women and children under six state-wide. Services include but are not limited to:

1) Coordination of Medicaid covered services;

2) Arranging for transportation to and from a source of medical care;

3) Client education regarding Medicaid covered services, the benefits of preventive medical and dental care, and how to efficiently utilize the health care Medicaid system and access services;

4) Prenatal education or health education;

5) Referral for services such as Women, Infants and Children (WIC);

6) Assistance to ensure client compliance with services prescribed/recommended by the Maternal and Child Health Provider PCP (such as substance abuse treatment, Early Intervention services, psychiatric services mental health, specialty care); and

7) Outreach and case finding.

4345=

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 140.924 Maternal and Child Health Provider Participation Requirements

a) Primary Care Providers

- 1) Basic Requirements
- Maternal and Child Health primary care providers may include physicians, Federally Qualified Health Centers (FQHCs), hospital clinics per Section 140.461(f) and encounter rate clinics per Section 140.461(b). Maternal and Child Health Healthy Moms/Healthy Kids providers shall meet the qualifications (see Section 140.12) as applicable for all medical providers under the Illinois Medical Assistance Program and shall:
- A) maintain hospital admitting privileges;
- B) maintain delivery privileges if providing care to pregnant women;
- C) be enrolled and in good standing with the Medical Assistance Program; and
- D) complete a Maternal and Child Health Primary Care Provider Agreement, or have been enrolled as a provider under the Healthy Moms/Healthy Kids Program, in which they agree to:
- i) provide periodic health screening (EPSDT), including age appropriate immunizations, and primary pediatric care as needed for children served in their practice, consistent with guidelines published by the American Academy of Pediatrics or American Academy of Family Physicians;
- ii) provide obstetrical care and delivery services as

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appropriate for pregnant women served through their practice, consistent with guidelines published by the American College of Obstetricians and Gynecologists or the American Academy of Family Physicians;

- iii) provide risk assessments for pregnant women and/or children;
- iv) provide medical care coordination, including arranging for diagnostic consultation and specialty care;
- v) communicate with the case management entity;
- vi) maintain 24-hour telephone coverage for assessment and consultation; and
- vii) provide equal access to quality medical care for assigned clients.

AGENCY NOTE: FQHCs are federally exempt from subsections (a)(1)(A) and (B) above.

2) Special Requirements

In addition to the basic requirements described in subsection (a)(1) above, encounter rate clinics as ~~the following~~ Maternal and Child Health ~~Healthy--Moms/Healthy--Kids~~ providers shall be required to meet the following additional requirements as specified below:

A) Federally--Qualified-Health-Centers-(FQHCs)-shall-be-required to:

- 1) Meet-the-qualifications-for-a-PQHC,--as-described-in Section-140.461(f);
- 2) Provide--managed--care--to--clients,--as--described-in Section-140.992(b)(1); and
- 3) Provide--specific--Healthy--Moms/Healthy--Kids--client assignment-capacity-proposals-to--the--Department--and agree--to--accept--a--specific-enrollment--and--primary care--practitioner--responsibility--for--a--specified minimum--number--of--clients--assigned-by-the-Department or--its--agent--in--accordance--with--the--terms--of--the Department's--Healthy--Moms/Healthy--Kids--Manual--and provider-agreement-for-PQHCs;

B) Encounter--Rate--Clinics--shall--be--required--to--meet--the following-additional-requirements:

- A) Meet the qualifications for an encounter rate clinic, as described in Section 140.461(b) 140.461(f); and
- B) Be owned, operated, managed, or staffed by a hospital that also operates a Maternal and Child Health ~~Healthy Moms/Healthy--Kids--managed--care~~ clinic, as described in Section 140.461(f), or be located in a county with a population exceeding 3,000,000 that is part of an organized clinic system consisting of 15 or more individual practice locations, of which at least 12 are Federally Qualified Health Centers, as defined in Section 140.461(d).

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3) Provide--managed--care--to--clients,--as--described--in Section-140.992(b)(1); and

- iv) Provide--specific--Healthy--Moms/Healthy--Kids--client assignment--capacity--proposals--to--the--Department--and agree--to--accept--a--specific-enrollment--and--primary care--practitioner--responsibility--for--a--specified minimum--number--of--clients--assigned-by--the--Department or--its--agent--in--accordance--with--the--terms--of--the Department's--Healthy--Moms/Healthy--Kids--Manual--and provider-agreement-for-encounter-rate-clinics;

E) Healthy--Moms/Healthy--Kids--Managed--Care--Clinics--shall--be required--to--meet--the-applicable-requirements-described-in Section-140.461(f);

- 3) The Department will consider requests from physicians who are unable to meet the hospital admitting privileges criteria for enrollment in the Maternal and Child Health ~~Healthy--Moms/Healthy Kids~~ Program if the physician has executed a formal agreement with another physician to accept referrals for hospital admissions. Requests will also be considered from physicians who do not have delivery privileges but wish to provide obstetrical care. The request will be reviewed by members of the State Medical Advisory Committee and a recommendation made by that body as to whether the physician should be enrolled as a PCP into the Program. At the discretion of the Committee, the requesting physician may be asked to appear for an interview and/or an on-site visit may be made by either a member of the Committee or a Department assigned physician consultant. For consideration to be given, the requesting physician must submit the following information and supporting documentation in a format specified by the Department which provides the following:

- A) Complete name, mailing address, Illinois practice license number and Medicaid provider number, if any;
- B) Declared practice specialty;
- C) Listing of all practice locations;
- D) Name and location of hospitals applied to for admitting privileges;
- E) Status of each request, i.e., pending or closed (if closed, a reason must be given by the hospital for not granting privileges);
- F) If application has never been made, a statement explaining why;
- G) Name of physician with whom a formal agreement has been effected;
- H) Illinois license number of Medicaid enrolled physician with hospital admitting privileges and name of hospitals where admitting privileges are in effect; and
- I) Copy of formal agreement.

- 4) The request is to be dated by the provider and forwarded to the

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participants. The recipient and the chosen PEP will be informed of the intended assignment. Providers of obstetric care must agree to accept the assignment of a pregnant woman. However, the assignment cannot be refused on grounds that would be considered discriminatory.

B) The assignment will have effect when so indicated on the next registry issued Medicaid card.

E) Once a recipient has been enrolled in the Healthy Moms/Healthy Kids program, the individual will remain in the program as long as he or she retains Medicaid eligibility unless the participant is identified when the waiver's eligibility requirements are no longer met such as when the recipient is incarcerated in a nursing facility or is hospitalized to a nonparticipating geographic area.

3) A) Primary health care services provided by the primary care provider (PEP) services outside the provider's scope of practice will be extended and authorized by the primary care provider in a written non-PEP selective enhanced rates for the services described in Section 140.922(b)(3)(B)(ii) when providing services outside the PEP's scope of service. The services must be authorized as described in Section 140.922(f).

4) The PEP will be enrolled with an option to change without cause at any time. The PEP will be enrolled with cause at any time. Cause shall exist in the following circumstances:

A) The PEP moves but the PEP continues to reside in the

same area.

B) The PEP moves but the client continues to reside in the

same area.

C) The client believes that the client's medical needs can be managed more effectively by a different provider.

D) The relationship between the client and the primary care provider is mutually unacceptable.

E) The primary care provider is inaccessible to the client or does not make 24-hour per-day, seven-day per-week coverage available to the client.

F) The primary care provider and the client have a language barrier or are mutually impediment to service.

G) The client alleges inappropriate behavior on the part of the primary care provider or

H) The client was randomly assigned pursuant to Section 140.922(f)(4).

5) The PEP and the client will be enrolled with an independent organization to assist in the operational function of this component of the Healthy Moms/Healthy Kids program. The independent contractor will be responsible for providing program assistance at each local Public Aid office located in Chicago to educate clients about the health delivery system option available to them under the program and enroll them with their chosen primary care

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Provider:

6) The independent organization will also assist providers in locating needed specialty care, administering a network of organizations performing supportive case management, operating a data system for client tracking purposes and operating a hotline to assist providers in obtaining needed information.

7) The independent organization will also authorize payment to the PEP when the PEP refers the client to another provider for specialty care.

B) Areas Not Covered by the Managed Care Component

1) Clients will not be enrolled with providers as described in subsection (f) above. Unless enrolled with a Health Maintenance Organization, downstate clients will not be required to receive primary health care services from a single provider but will be encouraged to do so. Healthy Moms/Healthy Kids providers serving clients who live outside Chicago will be required to provide or refer their clients for needed specialty care but will not be required to authorize those services.

(Source: Repealed at 20 Ill. Reg. _____, effective _____.)

Section 140.930 Reimbursement

a) Reimbursement Rates for Maternal and Child Health Healthy Moms/Healthy Kids Providers

1) Participating providers described in Section 140.922(b)(3)(A) that meet the criteria specified in 140.924(a)(1) will receive enhanced rates for certain medical services specified in Table M of this Part. The enhanced rates are effective for services provided on or after April 1, 1993.

2) Participating FQHC's, as described in Sections 140.922(b)(3)(B) and 140.461(d), that meet the criteria specified in 140.924(a)(2)(A), shall be reimbursed in accordance with Section 140.463(c) for covered services provided to a Maternal and Child Health Healthy Moms/Healthy Kids Program participant, as described in Section 140.922.

3) Participating encounter rate clinics, as described in Sections 140.922(b)(3)(A) and 140.461(d), shall be reimbursed in accordance with Section 140.463(b) for covered services provided to a Maternal and Child Health Healthy Moms/Healthy Kids Program participant, as described in Section 140.922.

4) Participating Maternal and Child Health Healthy Moms/Healthy Kids managed care clinics, as described in Sections 140.924(b)(3)(D) and 140.461(f), will receive enhanced rates for certain medical services specified in Table M of this Part. The enhanced rates are effective for services provided on or after April 1, 1993. shall be reimbursed in accordance with Section 140.464 for

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covered--services--provided--to--a--Healt--y--Wom--Health--Kids--Program participant--as--described--in--Section--140--463et.

b) Patient Management Fee

Providers who have accepted primary care responsibilities for foster children residing in Cook County who are under the guardianship of the Department of Children and Family Services will receive a monthly patient management fee for each client enrolled with them. Patient management fee for each client enrolled with them. Patients--providing--who--serve--Medicaid--enrolled--pregnant--women--and children--under--age--21--who--are--covered--under--the--managed--care--component will--receive--a--monthly--patient--management--fee--for--each--client--enrolled with--them.

c) Case Management Services

Providers of care management services will receive monthly payments. The payments will be prorated based upon an annual amount per case. A higher rate will be paid to the case management agency for case managing a family that contains a pregnant woman or child under age one.

(Source: Amended at 20 Ill. Reg. 313, effective

Section 140.932 Payment Authorization for Referrals (Repealed)

a) in the areas covered by the managed care component the PEP is required to provide primary care directly and must authorize referrals when the PEP determines that the client requires medical care outside his scope of practice. The PEP is required to have referral appointments. The PEP must notify the independent contractor when payment is authorized. Payments will be made to providers other than the PEP when a valid authorization number is reported on the claim form. Physicians practicing the same specialty in a single group can receive payment for services rendered to non-assigned clients by identifying the clients PEP as the referring practitioner by name and Medicaid provider number, on the claim for payment.

b) the following services do not require a payment authorization number for billing purposes:

1) Hospital emergency room services
2) Coverage of an after physician as part of a 24 hour a day seven days a week coverage

3) Family planning services

4) Preventive services for children including:

A) hearing screening

B) vision screening

C) immunizations, and

B) lead toxicity screening and epidemiological survey

5) All diagnostic and clinical tests that are medically necessary;

6) Pharmacy services; or

7) Early intervention services for young children such as:

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A) speech therapy;
B) physical therapy; or
C) occupational therapy.

(Source: Repealed at 20 Ill. Reg. 1345, effective

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Section 140. TABLE M Enhanced Rates for Maternal and Child Health Healthy Moms/Healthy-Kids Provider Services

- a) In accordance with Sections 140.464 and 140.930(a), certain providers who serve women will receive enhanced reimbursement rates for the following services:

CODE	DESCRIPTION
W7359	Prenatal risk assessment
59409	<u>Vaginal delivery</u>
59410	Vaginal delivery
59500	<u>C-section delivery</u>
59514	<u>C-section delivery</u>
59515	C-section delivery

- c) In accordance with Sections 140.464 and 140.930(a), certain providers who serve children under age 21 will receive enhanced reimbursement rates for the following services:

CODE	DESCRIPTION
W7018	Healthy Kids screening-Chicago/Downstate
W7360	Risk assessment, child referred for mental health assessment, services
W7361	Risk assessment, for mental health services, child, no referral
6000	DESCRIPTION
W7362	Risk assessment, child referred for substance abuse assessment treatment
W7363	Risk assessment for substance abuse, child, no referral
99201	Office visit - new patient - brief
99202	Office visit - new patient - limited
99203	Office visit - new patient - intermediate

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99204	Office visit - new patient - extended
99205	Office visit - new patient - comprehensive
6000	DESCRIPTION
99211	Office visit - established patient - brief
99212	Office visit - established patient - limited
99213	Office visit - established patient - intermediate
99214	Office visit - established patient - extended
99215	Office visit - established patient - comprehensive

- c) All other visits and services billed under valid CPT-4 procedure codes will be reimbursed at January 1, 1993, rates ~~of \$15.00~~ ^{of \$15.00}

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Specialized Health Care Delivery Systems2) Code Citation: 89 Ill. Adm. Code 1463) Section Numbers: Adopted Action:

146.100	New Section
146.105	New Section
146.110	New Section
146.115	New Section
146.125	New Section
146.130	New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]5) Effective Date of Amendments: February 29, 19966) Does this rulemaking contain an automatic repeal date? No7) Do these Amendments contain incorporations by reference? No8) Date Filed in Agency's Principal Office: February 29, 19969) Notice of Proposal Published in Illinois Register: October 20, 1995 (19 Ill. Reg. 14533)10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No11) Differences between proposal and final version: Several changes have been made in the text of the proposed amendments.Section 146.105

The second sentence of subsection (a) has been revised to read, "Such facilities shall not provide beds or other accommodations for the overnight stay of patients; however, facilities devoted exclusively to the treatment of children may provide accommodations and beds for their patients for up to 23 hours following admission."

The third sentence of subsection (a) has been revised to read, "Individual patients shall be discharged in an ambulatory condition without danger to the continued well-being of the patients or shall be transferred to a hospital or other similar environment."

In subsections (a)(1) and (a)(2), the quotation marks around "Hospital Licensing Act" and "Nursing Home Care Act" have been deleted, and the statutory citations have been revised to read "[210 ILCS 85]" and "[210

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ILCS 451".

Section 146.110

Subsection (b) has been revised to read, "In the case of an out-of-state ASTC, be licensed by their state agency or, where a state does not license ASTCs, be accredited by a national accrediting body."

The end of subsection (d) has been revised by the addition of the following sentence: "Such a plan shall include procedures for effecting transfer of the patient from the ASTC to a hospital."

Subsection (d)(1) has been revised to read, "The contracting hospital must be within 15 minutes."

Subsection (d)(2) has been deleted in its entirety.

Subsection (d)(3) has been relabeled "(d)(2)", and the comma after "transfer to a hospital" has been deleted.

Subsection (f) has been revised as follows:

f) Must perform surgical procedures in a safe manner using qualified physicians who have been granted clinical privileges by the governing body of the ASTC. These physicians must be licensed in the State of Illinois or, for an out-of-state ASTC, licensed by the state in which they practice and have skilled equivalent practice privileges at a licensed hospital.

Section 146.115

In the last line of subsection (a), a comma has been added after "but is not limited to".

Subsection (a)(4) has been revised to read, "Findings and techniques of the operation, including a pathologist's report on all tissues removed during surgery, except those exempted by the governing body of the ASTC or state law;"

Subsection (a)(5) has been revised to read, "Any known allergies and abnormal drug reactions;"

Subsection (f) has been deleted in its entirety.

Section 146.125

The Section title has been changed to "Covered Ambulatory Surgical Treatment Center Services".

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Section 146.130

The Section title has been changed to "Reimbursement for Services". In subsections (a) and (b), "statewide" has been changed to "Statewide". In subsections (b) and (c), the references to "Section 143.125(a)(1)" and "143.125(a)(2)" have been changed to "Section 146.125(a)(1)" and "Section 146.125(a)(2)".

Subsection (e) has been revised as follows:

The providers described in subsection (d) above must meet all applicable license, enrollment and reimbursement conditions of the Department of Public Aid, the Department of Public Health and the Department of Professional Regulation.

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect? No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments: These proposed amendments allow for the participation of Ambulatory Surgical Treatment Centers (ASTCs) in the Medicaid Program. An ASTC is a facility devoted primarily to the performance of surgical procedures on an outpatient basis. Such facilities do not provide beds or other accommodations for the overnight stay of patients. After a period of recovery, patients are discharged in an ambulatory condition. When complications occur, patients are transferred to a hospital for necessary care. Because freestanding surgical centers maintain low expenses, they are able to provide quality health care at anticipated lower costs compared to hospitals. Studies have shown that surgical procedures performed in ASTCs cost less than those same procedures at hospital outpatient departments.

The federal government began approval for Medicare to pay surgical costs in ASTCs in 1982. In Illinois, the Ambulatory Surgical Treatment Center Act was enacted in 1973. These proposed amendments describe conditions that an ASTC must meet in order to participate in the Medicaid Program. An ASTC must be licensed by the Department of Public Health, certified according to Medicare standards and face annual inspections to maintain Medicare approval. Out-of-state ASTCs must be licensed by their state agency and certified by a national accrediting body. ASTCs will be subject to utilization review as deemed appropriate by the Department. They will be required to maintain a contractual relationship, including a

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transfer and referral plan, with a hospital having reasonable proximity as described in the amendments.

Based upon advice from the State Medicaid Advisory Committee, ASTC enrollment will be allowed to provide Hospital Ambulatory Reform (HAR) Group I and Group III procedures. It is not known how many surgeries will be shifted from hospital outpatient units to ASTC settings. For those surgeries performed in ASTCs, the cost is expected to be approximately 75 percent of the usual hospital outpatient rate for Group III surgeries and 75 percent of the median Group I outpatient surgery rate.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 146

SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section 06

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990;
New Part adopted at 20 Ill. Reg. 4419, effective 1-1-91.

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section 146.100 General Description

This Part sets forth the conditions that an ambulatory surgical treatment center must meet in order to participate in the Medicaid Program.

Section 146.105 Definitions

For purposes of this Part, the following terms shall be defined as follows:

- a) "Ambulatory Surgical Treatment Center (ASTC)." Any distinct entity that operates primarily for the purpose of providing surgical services to patients not requiring hospitalization. Such facilities shall not provide beds or other accommodations for the overnight stay of patients; however, facilities devoted exclusively to the treatment of children may provide accommodations and beds for their patients for up to 23 hours following admission. Individual patients shall be discharged in an ambulatory condition without danger to the continued well-being of the patients or shall be transferred to a hospital or other similar environment. This provision shall include any place which meets the definition of an ambulatory surgical treatment center under the regulations of the Federal Health Care Financing

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Administration (42 CFR 416). The term "ambulatory surgical treatment center" does not include:

- 1) Any institution, place, building or agency required to be licensed pursuant to the Hospital Licensing Act [210 ILCS 95];
- 2) Any person or institution required to be licensed pursuant to the Nursing Home Care Act [210 ILCS 45];
- 3) Hospitals or ambulatory surgical treatment centers maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitals or ambulatory surgical treatment centers under its management and control;
- 4) Hospitals or ambulatory surgical treatment centers maintained by the federal government or agencies thereof; or
- 5) Any place, agency, clinic or practice, public or private, whether organized for profit or not, devoted exclusively to the performance of dental or oral surgical procedures.
- b) "Ambulatory Surgical Treatment Center Services." Facility services that are furnished in an ambulatory surgical treatment center.
- c) "Department." The Illinois Department of Public Aid.
- d) "Facility Services." Services that are furnished in connection with covered surgical procedures performed in an ambulatory surgical treatment center.

Section 146.110 Participation Requirements

To participate in the Medicaid Program, an ambulatory surgical treatment center (ASTC) must, in addition to any other Department requirements:

- a) Be licensed by the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 205.
- b) In the case of an out-of-state ASTC, be licensed by their state agency or, where a state does not license ASTCs, be accredited by a national accrediting body.
- c) Meet the requirements in 42 CFR 416.
- d) Maintain a contractual relationship, including a transfer and referral plan with a hospital. Such a plan shall include procedures for effecting transfer of the patient from the ASTC to a hospital.
 - 1) The contracting hospital must be within 15 minutes.
 - 2) Have an effective procedure for the immediate transfer to a hospital of patients requiring emergency medical care beyond the capabilities of the ASTC.
- e) Ensure that a qualified physician shall be present at the facility at all times during the operative and postoperative period for all patients.
- f) Must perform surgical procedures in a safe manner using qualified physicians who have been granted clinical privileges by the governing body of the ASTC. These physicians must be licensed in the State of Illinois or, for an out-of-state ASTC, licensed by the state in which they practice and have skilled equivalent practice privileges at a

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licensed hospital.

Section 146.115 Records and Data Reporting Requirements

- a) In addition to any other Department record requirements, the ambulatory surgical treatment center (ASTC) must maintain complete, comprehensive and accurate medical records to ensure adequate patient care that includes, but is not limited to, the following:
 - 1) Patient identification;
 - 2) Significant medical history and results of physical examination;
 - 3) Preoperative diagnostic studies (entered before surgery), if performed;
 - 4) Findings and techniques of the operation, including a pathologist's report on all tissues removed during surgery, except those exempted by the governing body of the ASTC or state law;
 - 5) Any known allergies and abnormal drug reactions;
 - 6) Entries related to anesthesia administration;
 - 7) Documentation of properly executed informed patient consent;
 - 8) Discharge diagnosis; and
 - 9) Medications ordered and administered.
- b) ASTC medical records must contain the dates of service and the name of the medical practitioner seeing the patient at the time of each center visit.
- c) Medical records for Medicaid patients must be made available to the Department or its designated representative in the performance of utilization review.
- d) The ASTC agrees to furnish to the Department, if requested, information necessary to establish payment rates in the form and manner that the Department requires.
- e) Services provided in an ASTC may be subject to prepayment and postpayment review to assess medical care, coding validation and quality of care.

Section 146.125 Covered Ambulatory Surgical Treatment Center Services

- a) The Department of Public Aid will reimburse ambulatory surgical treatment centers (ASTCs) for facility services in accordance with covered Hospital Ambulatory Reform (HAR) Procedure Codes from Group I and Group III of the Hospital Ambulatory Care Listing, as defined in 89 Ill. Adm. Code 148.140(b)(1). The Department may exclude from coverage in an ASTC any procedure identified as only appropriate for coverage in a hospital setting.
 - 1) Group I procedures are high level technology surgeries that consume many facility resources and are costly to deliver.
 - 2) Group III procedures are other surgical, specialized cardiac and diagnostic procedures.
 - 3) The Hospital Ambulatory Care List is updated periodically. As

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- b) Facility services furnished by an ASTC in connection with covered HAR codes Group I and Group III include, but are not limited to:
 - 1) Nursing, technician and related services;
 - 2) Use of the ASTC facilities;
 - 3) Supplies (such as drugs, biologicals (e.g., blood)), surgical dressings, splints, casts and appliances, and equipment directly related to the provision of surgical procedures;
 - 4) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;
 - 5) Administrative, recordkeeping, and housekeeping items and services; and
 - 6) Materials for anesthesia.
- c) Facility services do not include items and services for which payment may be made under other provisions of this Section such as physicians' services, laboratory, x-ray or diagnostic procedures performed by independent facilities or practitioners on the day of surgery (other than those directly related to performance of the surgical procedure), prosthetic devices, ambulance services, leg, arm, back and neck braces, artificial limbs, and durable medical equipment for use in the patient's home. In addition, they do not include anesthetic services.

Section 146.130 Reimbursement for Services

- a) Reimbursement levels shall be at the lower of the ASTC's usual and customary charge to the public or the Department's Statewide maximum reimbursement screen.
- b) With respect to Group I procedures described in Section 146.125(a)(1), reimbursement, an all-inclusive rate for facility services, shall be calculated at 75 percent of the Statewide median payment for Group I procedures in a hospital outpatient setting.
- c) With respect to the Group III procedures described in Section 146.125(a)(2), reimbursement, an all-inclusive rate for facility services, shall be at 75 percent of the Group III nonteaching hospital rate.
 - 1) Laboratory, x-ray, or prescription services or professional physicians' services, in connection with a covered surgical procedure, must be billed by the providers rendering such services. If the ASTC provides the lab or x-ray service, then:
 - 1) Separate billing is NOT allowed if provided on the day of surgery; or
 - 2) Separate billing IS allowed if provided on other than the day of surgery.
- e) The providers described in subsection (d) above must meet all

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applicable license, enrollment and reimbursement conditions of the Department of Public Aid, Department of Public Health and the Department of Professional Regulation.

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1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: Adopted Action:

130.305 Amendment

4) Statutory Authority: 35 ILCS 120

5) Effective Date of Rulemaking: March 4, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: March 4, 1996

9) Notice of Proposal Published in Illinois Register: October 13, 1995, 19 Ill. Reg. 14336

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: In lines 275-276, corrected source note.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Adopted Action:</u>	<u>Illinois Register Citation:</u>
130.120	Amendment	10/20/95, 19 Ill. Reg. 14752

15) Summary and Purpose of Rulemaking: The current rules do not include "aquaculture" in the definition of production agriculture. The legislature, through PA 89-220, has added "aquaculture" to the statutory definition. This rulemaking will bring the rules into conformance with the statute.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Martha P. Mote
Address: Special Assistant Counsel
Illinois Department of Revenue

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Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Telephone: (217)782-6996

The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
130.101
130.105
130.110
130.111
130.115
130.120

Character and Rate of Tax
Responsibility of Trustees, Receivers, Executors or Administrators
Occasional Sales
Sale of Used Motor Vehicles by Leasing or Rental Business
Habitual Sales
Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section
130.201
130.205
130.210
130.215
130.220

The Test of a Sale at Retail
Sales for Transfer Incident to Service
Sales of Tangible Personal Property to Purchasers for Resale
Further Illustrations
Sales to Lessors of Tangible Personal Property

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.305
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Farm Machinery and Equipment
Food, Drugs, Medicines and Medical Appliances
Fuel Sold for Use in Vessels on Rivers Bordering Illinois
Gasohol
Fuel Used by Air Common Carriers in International Flights
Graphic Arts Machinery and Equipment Exemption
Manufacturing Machinery and Equipment
Pollution Control Facilities
Rolling Stock
Oil Field Exploration, Drilling and Production Equipment
Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section
130.401
130.405
130.410

Meaning of Gross Receipts
How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
Cost of Doing Business Not Deductible

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130.415 Transportation and Delivery Charges
 130.420 Finance or Interest Charges--Penalties--Discounts
 130.425 Traded-In Property
 130.430 Deposit or Prepayment on Purchase Price
 130.435 State and Local Taxes Other Than Retailers' Occupation Tax
 130.440 Penalties
 130.445 Federal Taxes
 130.450 Installation, Alteration and Special Service Charges
 130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section
 130.501 Monthly Tax Returns--When Due--Contents
 130.502 Quarterly Tax Returns
 130.505 Returns and How to Prepare
 130.510 Annual Tax Returns
 130.515 First Return
 130.520 Final Returns When Business is Discontinued
 130.525 Who May Sign Returns
 130.530 Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
 130.535 Payment of the Tax, Including Quarterly Monthly Payments in Certain Instances
 130.540 Returns on a Transaction by Transaction Basis
 130.545 Registrants Must File a Return for Every Return Period
 130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
 130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
 130.555 Vending Machine Information Returns
 130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
 130.601 Preliminary Comments
 130.605 Sales of Property Originating in Illinois
 130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section
 130.701 General Information on Obtaining a Certificate of Registration
 130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
 130.710 Procedure When Security Must be Forfeited
 130.715 Sub-Certificates of Registration
 130.720 Separate Registrations for Different Places of Business of Same

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130.725 Taxpayer Under Some Circumstances
 130.730 Display
 130.735 Replacement of Certificate
 130.740 Certificate Not Transferable
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SUBPART H: BOOKS AND RECORDS

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 130.801 General Requirements
 130.805 What Records Constitute Minimum Requirement
 130.810 Records Required to Support Deductions
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SUBPART I: PENALTIES AND INTEREST

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 130.901 Civil Penalties
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SUBPART J: BINDING OPINIONS

Section
 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
 130.1101 Definition of Federal Area
 130.1105 When Deliveries on Federal Areas Are Taxable
 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
 130.1201 General Information
 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
 130.1301 When Lessee of Premises Must File Return for Leased Department

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130.1305 When Lessor of Premises Should File Return for Leased Department
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

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130.1401 Seller's Responsibility to Determine the Character of the Sale at
the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and
Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number--When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
130.1501 Claims for Credit--Limitations--Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
130.1510 Refunds
130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601 When Returns are Required After a Business is Discontinued
130.1605 When Returns Are Not Required After Discontinuation of a Business
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section
130.1901 Addition Agents to Plating Baths
130.1905 Agricultural Producers
130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage

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130.1915 Stamps and Like Articles
130.1920 Auctioneers and Agents
130.1925 Barbers and Beauty Shop Operators
130.1930 Blacksmiths
130.1935 Chiropodists, Osteopaths and Chiropractors
130.1940 Computer Software
130.1945 Construction Contractors and Real Estate Developers
130.1950 Co-operative Associations
130.1951 Dentists
130.1951 Enterprise Zones
130.1955 Farm Chemicals
130.1960 Finance Companies and Other Lending Agencies - Installment Contracts
- Repossessions
130.1965 Florists and Nurserymen
130.1970 Hatcheries
130.1975 Operators of Games of Chance and Their Suppliers
130.1980 Optometrists and Opticians
130.1985 Pawnbrokers
130.1990 Paddlers, Hawkers and Itinerant Vendors
130.1995 Personalizing Tangible Personal Property
130.2000 Persons Engaged in the Printing, Graphic Arts or Related
Occupations, and Their Suppliers
130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar
Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006 Sales by Teacher-Sponsored Student Organizations
130.2007 Exemption Identification Numbers
130.2008 Sales by Nonprofit Service Enterprises
130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to
Others
130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020 Physicians and Surgeons
130.2025 Picture-Framers
130.2030 Public Amusement Places
130.2035 Registered Pharmacists and Druggists
130.2040 Retailers of Clothing
130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art
Shows, Flea Markets and the Like
130.2050 Sales and Gifts By Employers to Employees
130.2055 Sales by Governmental Bodies
130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065 Sales of Automobiles for Use in Demonstration
130.2070 Sales of Containers, Wrapping and Packing Materials and Related
Products
130.2075 Sales To Construction Contractors, Real Estate Developers and
Speculative Builders
130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular
Personnel
130.2085 Sales to or by Banks, Savings and Loan Associations and Credit

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Unions	
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and the Like
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Vendors of Signs
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen
ILLUSTRATION A: Examples of Tax Exemption Cards	

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767,

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effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective MAR 4 1996.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.305 Farm Machinery and Equipment

- a) General: Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment, both new and used and including that manufactured on special order, used or leased for use primarily in production agriculture or for use in State or Federal agricultural programs, including any individual replacement part for such machinery and equipment. A purchaser must certify to the use of the equipment to obtain the exemption.
- b) Production Agriculture is the raising of or the propagation of: Livestock, crops for sale for human consumption; crops for livestock consumption; and production seed stock grown for the propagation of feed grains and the husbandry of animals or, for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. Production Agriculture also includes animal husbandry, floriculture, aquaculture, horticulture and viticulture. (Section 2-35 of the Act)
- c) Horticulture means the business of producing vegetables, vegetable plants, nursery stock, including the operation of nurseries and orchards, but not the sale of plants by retail outlets which do not grow the plant stock.
- d) Floriculture means the business of producing flowers, Christmas trees or other decorative trees, plants, shrubs, sod, including such

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operations as greenhouses but not the sale of plants by retail outlets which do not grow plant stock.

e) Viticulture means the business of growing grapes or operating vineyards.

f) Production Agriculture, with respect to crops, is limited to activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or fertilizer, harvesting and drying of crops. Specialized food production operations which produce plants under controlled environments in growing media other than soil, qualify as production agriculture. Activities such as the clearing of land, mowing of fence rows, creation of ponds or drainage facilities are not included, nor are the operations involved in the storing or transporting of crops and produce. The processing of crops into food or other products is not production agriculture. With respect to the raising of or propagation of livestock and husbandry of animals, the animals must be domestic farm animals raised for profit. The raising of wild animals, game birds and house pets would not be considered to be production agriculture.

g) The transport, slaughter and processing of animals or animal food products are not considered to be production agriculture.

h) Farm machinery and equipment. The exemption applies only to items of farm machinery and equipment either new or used, certified by the purchaser to be used primarily for production agriculture or State or Federal agricultural programs, and including machinery and equipment purchased for lease. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Motor Vehicle Code. Registered vehicles other than motor vehicles may qualify for the exemption if they are used primarily in production agriculture rather than in transportation or other nonexempt activities. The law exempts only the purchase and use of farm machinery and equipment used in production agriculture or State or Federal agricultural programs. Accordingly, no other type or kind of tangible personal property will qualify for the exemption.

i) Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or Federal agricultural programs. Farm machinery would include tractors, combines, balers, irrigation equipment, cattle and poultry feeders, but not improvements to real estate such as fences, barns, roads, grain bins, silos, and confinement buildings. A rotary mower which would not qualify for exemption if used to mow ditches or fence rows, would qualify for exemption if primarily used to mow crops or ground cover grown on acreage in State or Federal agricultural programs. Certain machines qualify for the exemption if purchased by farmers directly from retailers, even though they are installed as realty improvements. Such machines include but are not limited to augers, grain dryers (heaters and fans), automated livestock feeder bunks (but not ordinary building materials), automatic stock waterers (powered by electricity or water pressure and built into a permanent

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plumbing system), and water pumps serving production areas, specialty heating or lighting equipment specifically required by the production process, i.e., ultraviolet lights, and special heaters for incubation. General heating, lighting and ventilation equipment does not qualify as farm machinery or equipment. A person (such as a plumbing contractor) who contracts to provide and install an exempt machine or equipment permanently into real estate must obtain an exemption certificate from the person purchasing the machine. The contractor must furnish certification to the seller, attaching the certificate of the purchaser in order to claim the exemption.

j) A tractor or other machinery which qualifies for the exemption may include options or accessories which are not farm equipment. However, these items must be installed and sold both as an integral part of the qualifying machine and in a single transaction.

k) Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture. Equipment does not include ordinary building materials to be permanently affixed to real estate. However, certain items of equipment can qualify for the exemption even though they are installed as realty improvements. Such items of equipment include, but are not limited to, farrowing crates, gestation stalls, poultry cages, portable panels for confinement facilities and flooring used in conjunction with waste disposal machinery. Equipment used in farm management such as radios and office equipment, in repair and servicing of equipment, in security and fire protection, is not farm equipment; nor does the exemption apply to equipment used in farm maintenance, administration, selling, marketing or the exhibition of products. The exemption does include hand-operated equipment such as wheelbarrows, hoes, rakes, pitchforks and shovels so long as they are used in production agriculture as that term is defined in subsection (b) of this Section. Hand tools used in maintenance activities such as wrenches, pliers, wire stretchers, grease guns, hammers and screwdrivers are not used in production, and do not qualify for the exemption. Supplies, such as baling wire, baling twine, work gloves, boots, overshoes and chemicals for effluent systems are not exempt.

l) New or used repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or Federal agricultural programs, qualify for the exemption. However, accessories or replacements not essential to the operation of the machinery itself, except when sold as an integral part of a qualified machine at the time of purchase, such as radios, tool or utility boxes, do not qualify for the exemption. Included in the repair or replacement parts category are: batteries, tires, fan belts, mufflers, spark plugs, plow points, standard type motors and cutting parts. Consumable supplies such as fuel, grease, oil and anti-freeze are not repair or replacement parts.

m) Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the

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purchaser's name and address and a statement that the property purchased will be used primarily in production agriculture or in State or Federal agricultural programs. Retailers may accept blanket certificates but have the responsibility to obtain and must maintain the certificates as a part of their books and records. Retailers are required to exercise good faith in accepting exemption certificates. If, however, a retailer reasonably believes that the purchaser will use farm machinery or equipment in production agriculture or in State or Federal agricultural programs and accepts the certificate in good faith and the purchaser does not, in fact, use the machinery or equipment in production agriculture or in State or Federal agricultural programs, the purchaser will be liable to the Department for the tax. An item of farm machinery and equipment which is initially used primarily in production agriculture and having been so used for less than one-half of its useful life, is converted to primarily nonexempt uses, will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery and equipment as was excluded from tax at the time the sale or purchase was made.

n) Leasing. Farm machinery and equipment purchased for lease to be used by the lessee primarily in production agriculture or in State or Federal agricultural programs qualifies for the exemption. The lessor purchasing such equipment must certify that the equipment will be so used. Should a purchaser-lessor subsequently lease the machinery or equipment primarily to lessees who do not use it in a manner that would qualify for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.

o) Custom farmers or special service operators, i.e., crop dusting, fertilizer spraying, combining or corn shelling, who provide a service-for-hire on farms other than their own which is an integral part of production agriculture may also claim the exemption if the equipment is used primarily in production agriculture.

(Source: Amended at, 20 Ill. Reg. 4428, effective 1/1/84)

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: State Universities Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3) Section Numbers: Adopted Action:
250.10 Amendments
250.20 Amendments
- 4) Statutory Authority: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70]
- 5) Effective Date of Rulemaking: February 29, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: February 29, 1996
- 9) Notice of proposal published in Illinois Register: December 15, 1995, 19 Ill. Reg. 16518
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The purpose of these amendments are to change our rules to incorporate Public Act 89-4 -- restructuring of Higher Education by eliminating the Board of Governors and the Board of Regents and establishing seven new boards.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Emil G. Peterson, Deputy Director
State Universities Civil Service System
1717 South Philo Road, Suite 24
Urbana, Illinois 61801
(217) 333-3150

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

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The full text of the Adopted Amendment begins on the next page:

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE A: MERIT EMPLOYMENT SYSTEMS

CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEM

PART 250

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section

250.5	Definitions
250.10	Purpose, Adoption, and Amendment of Rules
250.20	The State Universities Civil Service System and its Divisions
250.30	The Classification Plan
250.40	Military Service Preference, Veterans Preference
250.50	Examinations
250.60	Eligible Registers
250.70	Nonstatus Appointments
250.80	Status Appointments
250.90	Probationary Period
250.100	Reassignments and Transfers
250.110	Separations and Demotions
250.120	Seniority
250.130	Review Procedures
250.140	Delegation of Authority and Responsibilities
250.150	Training
250.160	Suspension of Rules

AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg. 1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective January 24, 1994.

Section 250.10 Purpose, Adoption, and Amendment of Rules

a) Purpose.

The purpose of this Part is to give effect to the provisions of House Bill 831, as passed by the 67th General Assembly (an Act to create a

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

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classified civil service system to be known as the State Universities Civil Service System). This Part shall be applied in accordance with the purposes of this Act as follows:

- 1) To establish a sound program of personnel administration and to promote efficiency and economy in the services performed by the Illinois Community College Board, Southern Illinois University, the universities under the jurisdiction of the Board of Regents, the colleges and universities under the jurisdiction of the Board of Governors of State Colleges and Universities, the Board of Governors of State Colleges and Universities, the Board of Regents of the Regency Universities System, University of Illinois, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, State Universities Civil Service System, State Universities Retirement System, the Illinois Student Assistance Commission State Scholarship Commission, and the Board of Higher Education.

- 2) To provide equal opportunity for all, equal pay for equal work, and career opportunities comparable to those in business and industry, which will attract outstanding personnel to the State university service.

b) Adoption and Amendment of the Rules.

- 1) This Part shall be known as Civil Service Rules.
- 2) They become effective upon adoption by the Merit Board and ten days following their filing with the Secretary of State.
- 3) They may be amended at any time by majority vote of the Merit Board.

- c) Policies and Procedures. The Merit Board shall adopt and enforce policies and procedures for carrying out the provisions of this Part and those of the statute Statute. It shall supply appropriate forms for all personnel transactions required under this Part or the policies and procedures adopted under their authority.

(Source: Amended at 20 Ill. Reg. 444, effective February 2, 1972)

Section 250.20 The State Universities Civil Service System and its Divisions

- a) Classification and Allocation. All staff positions at the Illinois Community College Board, Southern Illinois University, the universities under the jurisdiction of the Board of Regents, the colleges and universities under the jurisdiction of the Board of Governors of State Colleges and Universities, the Board of Governors of State Colleges and Universities, the Board of Regents of the Regency Universities System, University of Illinois, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern

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Illinois University, Western Illinois University, State Universities Civil Service System, State Universities Retirement System, the Illinois Student Assistance Commission State Scholarship Commission, and the Board of Higher Education, except those positions specifically exempted by Section 36e of the statute Statute, are subject to classification functions as described in Section 250.30.

- b) Other Personnel Functions. All positions in the institutions and agencies covered by the statute Statute, except those exempted by Section 36e of the statute Statute, are subject to the examination, appointment, and other personnel functions described under Sections 250.40 through 250.150 inclusive.

- c) Designation of Persons to Act for Employer. Each employer governed by the statute Statute and by this Part shall, from time to time, as requested by the Director, file with the Director the name or names of those administrative officials of the employer who have been designated by the employer to act as its representative or representatives for the coordination of its acts and the exercise of its responsibilities in matters relating to the statute Statute and this Part.

(Source: Amended at 20 Ill. Reg. 444, effective February 2, 1972)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Numbers: Emergency Action:
 114.351 Amendment
 114.352 Amendment
 114.353 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].
- 5) Effective Date of Amendments: February 28, 1996
- 6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: February 28, 1996
- 8) Reason for Emergency: Transitional Assistance caseloads did not level out until late calendar year 1995 after all the effects from the changes implemented in July and September 1995 were fully implemented and operational. After analyzing these effects and deciding to pursue a payment level increase, the only way to implement a payment level increase for most of the second half of FY '96 is through emergency rulemaking, as regular rulemaking could not be effective until May or June 1996.

- 9) Complete Description of the Subjects and Issues Involved: The Department is increasing the Transitional Assistance Payment Level from \$60 per month to \$100 per month, effective in February, 1996. During the budget process for Fiscal Year 1996, the General Assembly made several changes to the Interim Assistance and Transitional Assistance programs. The Interim Assistance program was eliminated. Several categories of the Transitional Assistance program were eliminated. A new category of Transitional Assistance was created to encompass some, though by no means all, of the clients who are or would have been on Interim Assistance. Finally, the legislature made it clear that only \$20,000,000 was being appropriated for Transitional Assistance cash grants and the Department would be expected not to exceed that amount, even if cash grants had to be cut in the future.

The Department attempted to predict the eventual average caseload size taking into account all the changes that were made. It has become clear that the actual caseload size has fallen below those projections. Therefore, there is money available within the \$20,000,000 appropriation to provide a grant increase to Transitional Assistance clients. Based on actual caseload size for July-January, a more accurate estimate of

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caseload for the remainder of FY'96 and for FY'97 can be made. Based on this, the payment level can be increased to \$100 effective February 1996 and can remain at that level for FY'97 and stay within the \$20,000,000 appropriation.

Regular roll payments for March will reflect the increase. Supplemental payments of \$40 will be made to those clients on the regular rolls for February 1996.

- 10) Are there any Proposed Amendments pending to this Part? No
- 11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.
- 12) Information and questions regarding these Emergency Amendments shall be directed to:

Judy Umunna
 Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Avenue East, Third Floor
 Springfield, Illinois 62762
 Telephone: (217) 524-3215

The full text of the Emergency Amendments begins on the next page:

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 114

GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

Section	
114.1	Description of the Assistance Program
114.2	Determination of Not Employable
114.3	Advocacy Program for Persons Receiving State Transitional Assistance
114.5	Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
114.9	Client Cooperation
114.10	Citizenship
114.20	Residence
114.30	Age
114.40	Relationship
114.50	Living Arrangement
114.52	Social Security Numbers
114.60	Work Registration Requirements (Outside City of Chicago only)
114.61	Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
114.62	Job Service Registration (Outside City of Chicago only)
114.63	Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
114.64	Responsibility to Seek Employment (Outside City of Chicago only)
114.70	Initial Employment Expenses (Outside City of Chicago only)
114.80	Downstate General Assistance Work and Training Programs
114.85	Downstate General Assistance - Food Stamps Employment and Training Pilot Project
114.90	Project Chance Participation/Cooperation Requirements (Renumbered)
114.100	General Assistance Jobs Program (Repealed)

SUBPART C: PROJECT ADVANCE

Section	
114.108	Project Advance
114.109	Project Advance Participation Requirements of Adjudicated Fathers
Section	
114.110	Project Advance Cooperation Requirements of Adjudicated Fathers

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Project Advance Sanctions
Project Advance Good Cause for Failure to Comply
Individuals Exempt From Project Advance
Project Advance Supportive Services

SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

Section	
114.120	Employment and Training Requirements
114.121	Persons Required to Participate in Project Chance (Repealed)
114.122	Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
114.123	Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
114.124	Employment and Training Participation/Cooperation Requirements (Repealed)
114.125	Employment and Training Program Orientation (Repealed)
114.126	Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
114.127	Employment and Training Program Components (Repealed)
114.128	Employment and Training Sanctions (Repealed)
114.129	Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
114.130	Employment and Training Supportive Services (Repealed)
114.135	Conciliation and Fair Hearings (Repealed)
114.140	Employment Child Care (Repealed)

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section	
114.200	Unearned Income
114.201	Budgeting Unearned Income
114.202	Budgeting Unearned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.203	Initial Receipt of Unearned Income
114.204	Termination of Unearned Income
114.210	Exempt Unearned Income
114.220	Education Benefits
114.221	Unearned Income In-Kind
114.222	Earmarked Income
114.223	Lump Sum Payments
114.224	Protected Income
114.225	Earned Income
114.226	Budgeting Earned Income
114.227	Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.228	Initial Employment

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114.229 Termination of Employment
 114.230 Exempt Earned Income
 114.235 Recognized Employment Expenses
 114.240 Income From Work/Study/Training Program (Repealed)
 114.241 Earned Income From Self-Employment
 114.242 Earned Income From Roomer and Boarder
 114.243 Earned Income From Rental Property
 114.244 Earned Income In-Kind
 114.245 Payments from the Illinois Department of Children and Family Services
 114.246 Budgeting Earned Income For Contractual Employees
 114.247 Budgeting Earned Income For Non-contractual School Employees
 114.250 Assets
 114.251 Exempt Assets
 114.252 Asset Disregards
 114.260 Deferral of Consideration of Assets (Repealed)
 114.270 Property Transfers (Repealed)
 114.280 Supplemental Payments

SUBPART F: PAYMENT AMOUNTS

Section
 114.350 Payment Levels for General Assistance
114.351 Payment Levels in Group I Counties
EMERGENCY
 114.352 Payment Levels in Group II Counties
EMERGENCY
 114.353 Payment Levels in Group III Counties
EMERGENCY

SUBPART G: OTHER PROVISIONS

Section
 114.400 Persons Who May Be Included In the Assistance Unit
 114.401 Eligibility of Strikers
 114.402 Special Needs Authorizations
 114.403 Institutional Status
 114.404 Retrospective Budgeting
 114.405 Budgeting Schedule
 114.406 Limitation on Amount of General Assistance to Recipients from Other States
 114.420 Redetermination of Eligibility
 114.430 Extension of Medical Assistance Due to Increased Income from Employment
 114.440 Attorney's Fees for VA Appellants
 114.442 Attorney's Fees for SSI Applicants

SUBPART H: CHILD CARE

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Section
 114.450 Child Care
 114.452 Child Care Eligibility
 114.454 Qualified Provider
 114.456 Notification of Available Services
 114.458 Participant Rights and Responsibilities
 114.462 Additional Service to Secure or Maintain Child Care Arrangements
 114.464 Rates of Payment for Child Care
 114.466 Method of Providing Child Care

SUBPART I: TRANSITIONAL CHILD CARE

Section
 114.500 Transitional Child Care Eligibility
 114.504 Duration of Eligibility for Transitional Child Care
 114.506 Loss of Eligibility for Transitional Child Care
 114.508 Qualified Provider
 114.510 Notification of Available Services
 114.512 Participant Rights and Responsibilities
 114.514 Child Care Overpayments and Recoveries
 114.516 Fees for Service for Transitional Child Care
 114.518 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at

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5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 7, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9909, effective August 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 16107; amended at 7 Ill. Reg. 16408, effective November 30, 1983; amended at 7 Ill. Reg. 16652, effective December 1, 1983; amended at 8 Ill. Reg. 243, effective December 27, 1983; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6764, effective April 27, 1984; amended at 8 Ill. Reg. 11435, effective June 27, 1984; amended at 8 Ill. Reg. 13319, effective July 16, 1984; amended at 8 Ill. Reg. 16237, effective August 24, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17896; amended at 9 Ill. Reg. 314, effective January 1, 1985; emergency amendment at 9 Ill. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9557, effective June 5, 1985; amended at 9 Ill. Reg. 10764, effective July 5, 1985; amended at 9 Ill. Reg. 15800, effective October 16, 1985; amended at 10 Ill. Reg. 1924, effective January 17, 1986; amended at 10 Ill. Reg. 3660, effective January 30, 1986; emergency amendment at 10 Ill. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 4896, effective March 7, 1986; amended at 10 Ill. Reg.

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10681, effective June 3, 1986; amended at 10 Ill. Reg. 11041, effective June 5, 1986; amended at 10 Ill. Reg. 12662, effective July 14, 1986; amended at 10 Ill. Reg. 15118, effective September 5, 1986; amended at 10 Ill. Reg. 15640, effective September 19, 1986; amended at 10 Ill. Reg. 19079, effective October 24, 1986; amended at 11 Ill. Reg. 2307, effective January 16, 1987; amended at 11 Ill. Reg. 5297, effective March 11, 1987; amended at 11 Ill. Reg. 6238, effective March 20, 1987; emergency amendment at 11 Ill. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 18311, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18689, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20129, effective December 4, 1987; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 889, effective January 1, 1988; SUBPARTS C, D and E recodified to SUBPARTS E, F and G at 12 Ill. Reg. 2147; Section 114.110 recodified to Section 114.52 at 12 Ill. Reg. 2984; amended at 12 Ill. Reg. 3505, effective January 22, 1988; amended at 12 Ill. Reg. 6170, effective March 18, 1988; amended at 12 Ill. Reg. 6719, effective March 22, 1988; amended at 12 Ill. Reg. 9108, effective May 20, 1988; amended at 12 Ill. Reg. 9699, effective May 24, 1988; amended at 12 Ill. Reg. 9940, effective May 31, 1988; amended at 12 Ill. Reg. 11474, effective June 30, 1988; amended at 12 Ill. Reg. 14255, effective August 30, 1988; emergency amendment at 12 Ill. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amendment at 12 Ill. Reg. 16729, effective September 30, 1988; amended at 12 Ill. Reg. 20171, effective November 28, 1988; amended at 13 Ill. Reg. 89, effective January 1, 1989; amended at 13 Ill. Reg. 1546, effective January 20, 1989; amended at 13 Ill. Reg. 3900, effective March 10, 1989; amended at 13 Ill. Reg. 8580, effective May 20, 1989; emergency amendment at 13 Ill. Reg. 16169, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16015, effective October 6, 1989; amended at 14 Ill. Reg. 746, effective January 1, 1990; amended at 14 Ill. Reg. 3640, effective February 23, 1990; amended at 14 Ill. Reg. 6360, effective April 16, 1990; amended at 14 Ill. Reg. 10929, effective June 20, 1990; amended at 14 Ill. Reg. 13215, effective August 6, 1990; amended at 14 Ill. Reg. 13777, effective August 10, 1990; amended at 14 Ill. Reg. 14162, effective August 17, 1990; amended at 14 Ill. Reg. 17111, effective September 30, 1990; amended at 15 Ill. Reg. 288, effective January 1, 1991; amended at 15 Ill. Reg. 5710, effective April 10, 1991; amended at 15 Ill. Reg. 11164, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 15144, effective October 7, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3512, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 4540, effective March 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11662, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13297, effective August 15, 1992; emergency amendment at 16 Ill. Reg. 13651, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14769, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 16276, effective October 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17772, effective

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November 13, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18815, effective November 24, 1992; amended at 17 Ill. Reg. 1091, effective January 15, 1993; amended at 17 Ill. Reg. 2277, effective February 15, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 3639, effective February 26, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 6814, effective April 21, 1993; emergency amendment at 17 Ill. Reg. 19728, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3436, effective February 28, 1994; amended at 18 Ill. Reg. 7390, effective April 29, 1994; amended at 18 Ill. Reg. 12839, effective August 5, 1994; emergency amendment at 19 Ill. Reg. 8434, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15058, effective October 17, 1995; emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days.

Section 114.351 Payment Levels in Group I Counties**EMERGENCY**

- a) The following payment levels are established for the GA Program in Group I Counties.
b) The counties included in Group I are:

Boone	Kane	Ogle
Champaign	Kankakee	Whiteside
Cook	Kendall	Winnebago
DeKalb	Lake	Woodford
Dupage	McHenry	

1) Family and Children Assistance Case Payment Levels

SIZE OF ASSISTANCE UNIT	CARETAKER RELATIVE(S) AND		CHILD(REN) ONLY CURRENT
	CHILD(REN) CURRENT	CHILD(REN) ONLY CURRENT	
1	165	102	
2	278	201	
3	377	249	
4	414	319	
5	485	379	
6	545	407	
7	574	438	
8	604	469	
9	635	503	
10	669	538	
11	705	576	
12	741	614	
13	781		
14	822		

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- 15 866
16 911
17 959
18 1010
- 2) The Transitional Assistance case payment level in Group I counties is \$100.969.
c) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding \$50.00 or \$38.00 respectively for each person above 18 or 12.

d) As the legislature has determined that payments under the GA program should contain amounts for the purpose of energy assistance, and has directed that such amounts be established by rule, the first \$10 of the GA Payment Level, in the City of Chicago and, for Caretaker Relatives and Children, Family size of 1, and the first \$18 of the GA Payment Level for Caretaker Relatives and Children of other family sizes has been designated as being for the purpose of energy assistance.

(Source: Emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days)

Section 114.352 Payment Levels in Group II Counties**EMERGENCY**

- a) The following payment levels are established for the GA Program in Group II Counties.
b) The counties included in Group II are:

Adams	Lee	St. Clair
Bureau	Livingston	Stephenson
Carroll	Logan	Tazewell
Clinton	Macon	Vermilion
Coles	Macoupin	Wabash
DeWitt	Madison	Warren
Douglas	McDonough	Will
Effingham	McLean	
Ford	Mercer	
Fulton	Monroe	
Grundy	Morgan	
Henry	Moultrie	
Iroquois	Peoria	
Jackson	Piatt	
Jo Daviess	Putnam	
Knox	Rock Island	
LaSalle	Sangamon	

1) Family and Children Assistance Case Payment Levels

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SIZE OF ASSISTANCE UNIT	CARETAKER RELATIVE(S)		CHILD(REN) ONLY CURRENT
	AND CURRENT	CHILD(REN) CURRENT	
1	160	97	160
2	269	194	269
3	365	242	365
4	403	311	403
5	471	369	471
6	529	397	529
7	557	427	557
8	588	459	588
9	619	491	619
10	651	525	651
11	685	561	685
12	721	599	721
13	760		760
14	799		799
15	841		841
16	886		886
17	934		934
18	982		982

2) The Transitional Assistance case payment level in Group II counties is \$100 \$60.

c) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding \$48.00 or \$38.00 respectively for each person above 18 or 12.

d) As the legislature has determined that payments under the GA program should contain amounts for the purpose of energy assistance, and has directed that such amounts be established by rule, the first \$5 of the GA Payment Level for Caretaker Relative and Children, Family size of 1, and the first \$18 of the GA Payment Level for Caretaker Relatives and Children of other family sizes has been designated as being for the purpose of energy assistance.

(Source: Emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days)

Section 114.353 Payment Levels in Group III Counties EMERGENCY

a) The following payment levels are established for the GA Program in Group III Counties.

b) The counties included in Group III are:

Alexander	Edgar	Jasper	Montgomery	Shelby
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Bond	Edwards	Jefferson	Perry	Stark
Brown	Fayette	Jersey	Pike	Union
Calhoun	Franklin	Johnson	Pope	Washington
Cass	Gallatin	Lawrence	Pulaski	Wayne
Christian	Greene	Marion	Randolph	White
Clark	Hamilton	Marshall	Richland	Williamson
Clay	Hancock	Mason	Saline	
Crawford	Hardin	Massac	Shuyler	
Cumberland	Henderson	Menard	Scott	

1) Family and Children Assistance Case Payment Levels

SIZE OF ASSISTANCE UNIT	CARETAKER RELATIVE(S)		CHILD(REN) ONLY CURRENT
	AND CURRENT	CHILD(REN) CURRENT	
1	154	94	154
2	257	188	257
3	349	237	349
4	389	302	389
5	453	359	453
6	511	387	511
7	538	414	538
8	566	445	566
9	597	477	597
10	628	510	628
11	662	545	662
12	696	581	696
13	733		733
14	771		771
15	812		812
16	855		855
17	900		900
18	948		948

2) The Transitional Assistance case payment level in Group III counties is \$100 \$60.

c) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding \$48.00 or \$36.00 respectively for each person above 18 or 12.

d) As the legislature has determined that payments under the GA program should contain amounts for the purpose of energy assistance, and has directed that such amounts be established by rule, the first \$18 of the GA Payment Level for Caretaker Relatives and Children of all family sizes except the family size of 1 has been designated as being for the purpose of energy assistance.

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(Source: Emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days)

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NOTICE OF EXPEDITED CORRECTION

1) Heading of the Part: Franchise Disclosure Act

2) Code Citation: 14 Ill. Adm. Code 200

3) Section Numbers:

200.604

200.Appendix A, Illustration L

200.Appendix B, Illustration A

200.Appendix B, Illustration C

4) Date Proposal published in Illinois Register: June 16, 1995; 19 Ill. Reg. 7647

5) Date Adoption published in Illinois Register: December 29, 1995; 19 Ill. Reg. 16950

6) Date Request for Expedited Correction published in Illinois Register: February 16, 1996; 20 Ill. Reg. 3347

7) Adoption Effective Date: January 1, 1996

8) Correction Effective Date: January 1, 1996

9) Reason for Approval of Expedited Correction: After adoption of the above captioned rulemaking, nonsubstantive errors in printing were disclosed concerning text proposed at First Notice on June 16, 1995, but inadvertently omitted upon adoption at 19 Ill. Reg. 16950 (December 29, 1995 *Illinois Register*). The Office of the Attorney General has discovered four nonsubstantive errors in adopted rule text that create an unintentional discrepancy between adopted rule text and text previously published in the *Illinois Register* and text referenced which has been previously repealed. The printing errors and the discrepancies fulfill the criteria for expedited correction stated in Section 5-85(b) of the IAPA [5 ILCS 100/5-85(b)].

Agency Director

Date

The full text of the Corrected Rule begins on the following page:

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NOTICE OF EXPEDITED CORRECTION

TITLE 14: COMMERCE
 SUBTITLE A: REGULATION OF BUSINESS
 CHAPTER II: ATTORNEY GENERAL

PART 200

FRANCHISE DISCLOSURE ACT

SUBPART A: DEFINITIONS

Section

200.100 Act
 200.101 Disclosure Statement
 200.102 Marketing Plan or System
 200.103 Substantially Associated
 200.104 Franchise Fee
 200.105 Absence of Fee Exclusion
 200.106 Bona Fide Wholesale and Retail Price
 200.107 Established Market
 200.108 Indirect Franchise Fee
 200.109 Consideration
 200.110 Material Change
 200.112 Administrator
 200.113 Correspondent
 200.114 Negotiated Change
 200.115 Offer

SUBPART B: OPINIONS, EXEMPTIONS

Section

200.200 Interpretive Opinions and No Action Letters
 200.201 Order of Exemption
 200.202 Exemptions by Rule

SUBPART C: ADVERTISING

Section

200.300 Deceptive Practices
 200.301 Statements of Profitability
 200.302 Opinions of Counsel
 200.303 Inconsistencies with Disclosure Statement
 200.304 Dollar Statements on Sales or Income
 200.305 Filing Requirements

SUBPART D: HEARINGS

Section

200.400 Preamble
 200.401 Party

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200.402 Hearing Officer
 200.403 Office
 200.404 Hearing Requests
 200.405 Notice of Hearing
 200.406 Requirements Relating to Continuances
 200.407 Rules of Evidence in Hearings
 200.408 Record of Proceedings
 200.409 Record of Hearing
 200.410 Duties of Hearing Officer
 200.411 Final Administrative Decision

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,
 ESCROW, GUARANTY, SURETY BOND

Section

200.500 Assurance of Financial Ability to Fulfill Obligations
 200.502 Escrow of Funds
 200.503 Release of Escrowed Funds
 200.504 Guarantee of Performance
 200.505 Performance or Surety Bond
 200.506 Certificate of Deposit
 200.507 Release of Certificate of Deposit
 200.508 Deferral of Franchise Fee

SUBPART F: REGISTRATION REQUIREMENTS

Section

200.600 Original Registration
 200.602 Notification of Registration
 200.603 Annual Report
 200.604 Amendment Application
 200.605 Final Circular Submission
 200.606 Multiple Filings
 200.607 Public Examination and Photocopying of Disclosure Statements
 200.608 Jurisdiction and Venue
 200.609 Waiver

SUBPART G: AREA FRANCHISE AND SUBFRANCHISE REGISTRATION
 REQUIREMENTS-RESPONSIBILITIES FOR FILING

Section

200.701 Number of Applications
 200.702 Responsibility for Filing the Application
 200.703 Time for Filing the Application (Repealed)

SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION

Section

200.800 Failure to Diligently Prosecute Application

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SUBPART I: REGISTRATION OF FRANCHISE BROKERS

Section

200.900 Documents to File

200.901 Notice of Broker Registration

APPENDIX A Franchise Registration Forms

ILLUSTRATION A Uniform Franchise Registration Application Page

ILLUSTRATION B Supplemental Information

ILLUSTRATION C Salesperson Disclosure

ILLUSTRATION D Uniform Consent to Service of Process

ILLUSTRATION E Corporate Acknowledgment

ILLUSTRATION F Individual or Partnership Acknowledgment

ILLUSTRATION G Certification Page

ILLUSTRATION H Consent of Accountant

ILLUSTRATION I UFOC Cross Reference Sheet (Repealed)

ILLUSTRATION J FTC Cross Reference Sheet (Repealed)

ILLUSTRATION K Acknowledgment of Receipt (Suggested Format) (Repealed)

ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

ILLUSTRATION M Joint Venture Agreement & Acknowledgment

ILLUSTRATION N Limited Partnership Acknowledgment

APPENDIX B Franchise Broker Registration Forms

ILLUSTRATION A Franchise Broker Registration Application Page

ILLUSTRATION B Broker Authorization

ILLUSTRATION C Franchise Broker Surety Bond

ILLUSTRATION D Broker Guaranty of Performance

APPENDIX C Escrow Forms

ILLUSTRATION A Escrow Agreement

ILLUSTRATION B Franchisor's Petition for Release of Escrowed Funds

ILLUSTRATION C Franchisee's Petition for Release of Escrowed Funds

APPENDIX D Guaranty Forms

ILLUSTRATION A Guaranty of Performance

ILLUSTRATION B Corporate Resolution

ILLUSTRATION C Secretary's Certificate

APPENDIX E Surety Bond

Certificate of Deposit Forms

ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit

ILLUSTRATION B Franchisee's Petition for Release of Certificate of Deposit

AUTHORITY: Implementing and authorized by the Franchise Disclosure Act of 1987 [815 ILCS 705].

SOURCE: Filed April 25, 1977, effective May 5, 1977, by the Office of the Secretary of State; transferred to the Attorney General by P.A. 80-31, effective February 28, 1978; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1367, effective January 13, 1984; emergency amendments at 12 Ill. Reg. 1124, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 9424, effective May 18, 1988; amended at 13 Ill. Reg. 15365,

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effective September 19, 1989; peremptory amendment at 18 Ill. Reg. 2522, effective January 31, 1994; amended at 19 Ill. Reg. 16950, effective January 1, 1996; expedited correction at 20 Ill. Reg. 4458, effective January 1, 1996.

SUBPART F: REGISTRATION REQUIREMENTS

Section 200.604 Amendment Application

a) The following materials must be submitted to the administrator to amend its disclosure statement.

- 1) Two complete copies of the Disclosure Statement containing the changes. One copy is to have all changes underlined in red;
 - 2) An Application page, Appendix A, Illustration A;
 - 3) A Certification page, Appendix A, Illustration A;
 - 4) A nonrefundable filing fee;
 - 5) A cover letter detailing the amendment.
 - A) \$25.00 for an immaterial amendment;
 - B) \$100.00 for a material amendment; and
- b) A disclosure document cannot be amended by addendum.

(Source: Expedited correction at 20 Ill. Reg. 4458, effective January 1, 1996)

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Section 200. APPENDIX A Franchise Registration Forms

Section 200. ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

{EDITOR'S NOTE: BECAUSE OF THE LENGTH OF APPENDIX A, ILLUSTRATION L, THE ENTIRE ILLUSTRATION IS NOT BEING PRINTED HERE. RATHER, AS THE ILLUSTRATION IS DIVIDED INTO DISCUSSIONS OF VARIOUS ITEMS, ONLY THE RELEVANT ITEM IS BEING PRINTED}

Item 19

EARNINGS CLAIMS

A. AN EARNINGS CLAIM MADE IN CONNECTION WITH AN OFFER OF A FRANCHISE MUST BE INCLUDED IN FULL IN THE OFFERING CIRCULAR AND MUST HAVE A REASONABLE BASIS AT THE TIME IT IS MADE. IF NO EARNINGS CLAIM IS MADE, ITEM 19 OF THE OFFERING CIRCULAR MUST CONTAIN THE NEGATIVE DISCLOSURE PRESCRIBED IN THE INSTRUCTION.

Item 19A Instructions:

i. Definition: "Earnings claim" means information given to a prospective franchisee by, on behalf of or at the direction of the franchisor or its agent, from which a specific level or range of actual or potential sales, costs, income or profit from franchised or non-franchised units may be easily ascertained.

A chart, table or mathematical calculation presented to demonstrate possible results based upon a combination of variables (such as multiples of price and quantity to reflect gross sales) is an earnings claim subject to this item.

An earnings claim limited solely to the actual operating results of a specific unit being offered for sale need not comply with this item if it is given only to potential purchasers of that unit and is accompanied by the name and last known address of each owner of the unit during the prior three years.

ii. Supplemental earnings claim: If a franchisor has made an earnings claim in accordance with this Item 19, the franchisor may deliver to a prospective franchisee a supplemental earnings claim directed to a particular location or circumstance, apart from the offering circular. The supplemental earnings claim must be in writing, explain the departure from the earnings claim in the offering circular, be

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prepared in accordance with this Item 19, and be left with the prospective franchisee.

iii. Scope of requirement: An earnings claim is not required in connection with the offer of franchises; if made, however, its presentation must conform with this Item 19. If an earnings claim is not made, then negative disclosure 19 (below) must be used.

iv. Claims regarding future performance: A statement or prediction of future performance that is prepared as a forecast or projection in accordance with the statement on standards for accountants' services on prospective financial information (or its successor) issued by the American Institute of Certified Public Accountants, Inc., is presumed to have a reasonable basis.

v. Burden of proof: The burden is upon the franchisor to show that it had a reasonable basis for its earnings claim.

[NEGATIVE DISCLOSURE 19]

REPRESENTATIONS REGARDING EARNINGS CAPABILITY

Belmont does not furnish or authorize its salespersons to furnish any oral or written information concerning the actual or potential sales, costs, income or profits of [a Belmont muffler shop]. Actual results vary from unit to unit and Belmont cannot estimate the results of any particular franchise.

B. AN EARNINGS CLAIM SHALL INCLUDE A DESCRIPTION OF ITS FACTUAL BASIS AND THE MATERIAL ASSUMPTIONS UNDERLYING ITS PREPARATION AND PRESENTATION.

Item 19B Instructions:

i. Factual Basis: The factual basis of an earnings claim includes significant matters upon which a franchisee's future results are expected to depend. This includes, for example, economic or market conditions which are basic to a franchisee's operation and encompass matters affecting, among other things, franchisee's sales, the cost of goods or services sold and operating expenses.

In the absence of an adequate operating experience of its own, a franchisor may base an earnings claim upon the results of operations of a substantially similar business of a person affiliated with the franchisor or franchisees of that person; provided that disclosure is made of any material differences in the economic or market conditions

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known to, or reasonably ascertainable by, the franchisor.

ii. Basic Disclosures: The earnings claim must state:

- a. Material assumptions, other than matters of common knowledge, underlying the claim (see Definition iii under Item 3 for the definition of "material");
- b. A concise summary of the basis for the claim including a statement of whether the claim is based upon actual experience of franchised units and, if so, the percentage of franchised outlets in operation for the period covered by the earnings claim that have actually attained or surpassed the stated results;
- c. A conspicuous admonition that a new franchisee's individual financial results are likely to differ from the result stated in the earnings claim; and
- d. A statement that substantiation of the data used in preparing the earnings claim will be made available to the prospective franchisee on reasonable request.

(Source: Expedited correction at 20 Ill. Reg. 4458, effective January 1, 1996)

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Section 200.APPENDIX B Franchise Broker Registration Forms

Section 200.ILLUSTRATION A Franchise Broker Registration Application Page

File No.

(Insert file number of previous filings of Applicant, if any)

FEE:

(To be enclosed by Applicant at time application is initially filed)

Date of

Application:

1. Name of Franchise Broker.

Name under which the Franchise Broker is doing or intends to do business.

2. Franchise Franchisor Broker's principal business address.

Name and address of Franchise Franchisor Broker's agent in the State of Illinois authorized to receive process.

Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706

3. Name, address and telephone number of person to whom communications regarding this application should be directed.

(Source: Expedited correction at 20 Ill. Reg. 4458, effective January 1, 1996)

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Section 200. ILLUSTRATION C Franchise Broker Surety Bond

We, _____, as principal, and _____, a corporation, with principal offices at _____ incorporated under the laws of the State of _____, a Surety Company conduct business in the State of Illinois as Surety, and authorized to the Illinois Attorney General, Obligor in the sum of _____ to be paid to the Obligor or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Illinois Attorney General for registration as a franchise broker under the Illinois Franchise Disclosure Act [815 ILCS 705] ~~711-Rev-Stat--1987--ch--121-1727~~ ~~par--716-1~~ and is required pursuant to the Rules and Regulations promulgated under the Illinois Franchise Disclosure Act to post bond in the amount of _____.

WHEREAS, the Obligor intends to assign this bond to the respective purchaser(s) of the aforementioned franchise upon sale of the aforementioned franchise(s) to said purchaser(s).

THEREFORE, the condition of this obligation is that the principal:

1. Comply with the Illinois Franchise Disclosure Act and Regulations promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the Broker's violation of said Illinois Franchise Disclosure Act or any Rules or Regulations promulgated thereunder or any acts, rules, regulations, or orders amendatory thereof, and supplementary thereto, or hereafter enacted, or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made, in the light of the circumstances under which such statement was made, not misleading.

This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full years after the date of execution shown below.

In the event that any action or proceeding is initiated with respect to this bond, the parties agree that the venue thereof shall be the County in which the offer or sale of the franchise occurred.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument at _____ this _____ day of _____, 19____.

Principal

ATTORNEY GENERAL

NOTICE OF EXPEDITED CORRECTION

Surety

(Source: Expedited correction at 20 Ill. Reg. 4458, effective January 1, 1996)

ILLINOIS LIQUOR COMMISSION
NOTICE OF EXPEDITED CORRECTION

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE A: ALCOHOL
CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION

PART 100
THE ILLINOIS LIQUOR CONTROL COMMISSION

Section	
100.5	Penalties
100.10	Definitions
100.20	Employment of Minors
100.30	Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation
100.40	Local Liquor Control Commissioner's Report (Repealed)
100.50	Advertising
100.60	Geographical Territories
100.70	Labels
100.80	Bonds (Repealed)
100.90	Credit to Retail Licensees
100.100	Internal Changes Within Corporations
100.110	Application Forms
100.120	Railroad Licenses
100.130	Books and Records
100.140	Miniatures (Repealed)
100.150	Salvaged Alcoholic Liquors
100.160	Sanitation
100.170	Taps
100.180	Procedure Before Commission on Citations
100.190	Procedure Before Commission on Request for Continuance of Any Hearing
100.200	Wagering Stamps (Repealed)
100.210	Inducements
100.220	Retail Licensee Clubs (Repealed)
100.230	Resumption of Business on Appeal
100.240	Transactions Involving Use of Checks and Their Equivalent
100.250	Transfer of Alcohol
100.260	Uniform Systems of Accounts
100.270	Multi-Use Facilities
100.280	Giving Away of Alcoholic Liquors
100.290	Refilling
100.300	Authorization to Remove Bottles
100.310	Food Service at Park Districts
100.320	Airplanes
100.330	Advertising
100.340	Petitions for the Adoption, Amendment or Repeal of a Rule
100.350	Procedures For Filing Appeals From an Order of the Local Liquor Control Commissioner
100.360	Review on Record -- Certification of Ordinance
100.370	Procedures Before the Commission

ILLINOIS LIQUOR COMMISSION
NOTICE OF EXPEDITED CORRECTION

1) Heading of the Part: The Illinois Liquor Control Commission

2) Code Citation: 11 Ill. Adm. Code 100

3) Section Numbers:

100.10

4) Date Proposal published in Illinois Register: August 25, 1995; 19 Ill. Reg. 12165

5) Date Adopted in Illinois Register: January 12, 1996; 20 Ill. Reg. 834

6) Date of Request for Expedited Correction: February 2, 1996; 20 Ill. Reg. 2244

7) Adoption Effective Date: January 2, 1996

8) Correction Effective Date: January 2, 1996

9) Reason for Expedited Correction: The reason for the correction is because of an inadvertent error in that alcohol liquor sampling was meant only to be allowed at off-premise accounts as allowing sampling at on-premise accounts would circumvent the Happy Hours prohibition law and promote over-consumption of alcoholic beverages.

Agency Director

Date

The full text of the Corrected Rule begins on the following page:

ILLINOIS LIQUOR COMMISSION

NOTICE OF EXPEDITED CORRECTION

- 100.380 Ex Parte Consultations
 100.390 Review on Record -- Certification of Ordinance (Renumbered)
 100.400 Procedures Before the Commission (Renumbered)
 100.410 Ex Parte Consultations (Renumbered)

AUTHORITY: Implementing and authorized by Section 3-12(2) of the Liquor Control Act [235 ILCS 5/3-12(2)].

SOURCE: Rules and Regulations of the Illinois Liquor Commission, amended March 31, 1977; amended July 7, 1977; amended at 3 Ill. Reg. 12, p. 65, effective March 22, 1979; codified at 5 Ill. Reg. 10706; amended at 8 Ill. Reg. 6041, effective April 19, 1984; amended at 12 Ill. Reg. 19387, effective November 7, 1988; amended at 18 Ill. Reg. 4811, effective March 9, 1994; amended at 20 Ill. Reg. 844 effective January 2, 1996; expedited correction at 20 Ill. Reg. 4469, effective January 2, 1996.

Section 100.10 Definitions

The following words or phrases are defined as follows:

- a) "Resident" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least one year and in the city, village or county in which the premises covered by the license are located for at least 90 days prior to making application for such license.
- b) "Corporation" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the Business Corporation Act of 1983 [805 ILCS 5], including a Limited Liability Company as defined in subsection (m) below.
- c) "Person" includes corporations, co-partnerships, associations, clubs, individuals, trustees, receivers, assignees, executors, administrators or other personal representatives of decedents.
- d) "Co-partnership" means an association of two or more persons to carry on as co-owners of a business for profit.
- e) "Partner" is any individual who is a member of a co-partnership.
- f) "Manager" or "Agent" means any individual employed by any licensed place of business, provided said individual possesses the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe.
- g) "Premises" or "Place of Business" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, streets, parking areas and grounds adjacent to any such place or location.
- h) "Wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or

ILLINOIS LIQUOR COMMISSION

NOTICE OF EXPEDITED CORRECTION

- i) "spirits, as defined in the Act, provided that the alcoholic content thereof does not exceed 24 per cent of alcohol by volume.
 "Alcoholic liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and, in the judgment of the State Commission, capable of being consumed as a beverage by a human being. The word "solid" means any substance which, by dilution or processing, becomes an alcoholic beverage.
- j) "Manufacturer" shall include every person who, in the process of filling or refilling an original package with alcoholic liquors purchased by such person, changes the degree or quality of such alcoholic liquors by any manner or means whatsoever.
 "Airplane" shall be deemed to include railroads and airplanes.
- k) "Act" means the Illinois Liquor Control Act [235 ILCS 5].
- l) "Limited Liability Company" means a legal business entity created and recognized under the Illinois Limited Liability Company Act [805 ILCS 180].
- n) "Meal" means food that is prepared and served on the licensed premises and excludes the serving of snacks.
- o) "Event" means a single theme.
- p) "Sampling" means a product offered at an off-premise on-premise retail licensee for a sales promotion of no more than the following amounts: Distilled Spirits 1/2 oz., Wine 2 oz., and Beer 6 oz.; only one product per day may be sampled and the sales promotion may not be advertised.
- q) "Test Marketing" means to test new products or products unfamiliar to the sampler through a marketing firm or the like.

(Source: Expedited correction at 20 Ill. Reg. 4469, effective January 2, 1996)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PUBLIC HEARING
ON DRAFT AMENDMENTS TO EXISTING RULES

1) Heading of the Part: Emergency Medical Services and Trauma Center Code

2) Code Citation: 77 Ill. Adm. Code 515

3) Date, Time and Location of Public Hearing:

April 25, 1996

10:00 a.m. - 1:00 p.m.

Illinois Hospital Association

1151 E. Warrenville Road

Naperville, Illinois 60566

April 10, 1996

10:00 a.m. - 1:00 p.m.

Wedeberg Conference Center

Room E72

Memorial Medical Center

800 N. Rutledge

Springfield, Illinois 62702

4) Other Pertinent Information: Public Act 89-0177 (effective July 19, 1995) substantially revised the EMS Act. The Department plans to promulgate new rules and repeal its existing rules in Parts 535, 540 and 542. Rules have already been adopted in Part 515 establishing the EMS Region boundaries, which the Act required be accomplished by September 1, 1995. Draft amendments to Part 515 implementing the remainder of the Act have been developed. The purpose of these public hearings is to receive comments from the regulated public concerning the draft amendments. Copies of the draft amendments may be obtained from the **Illinois Department of Public Health, Office of Health Care Regulation, 525 W. Jefferson, Springfield, Illinois, 62761 (217/782-2913).**

The hearing will be held for the sole purpose of gathering public comment on the draft regulations. Persons interested in presenting testimony at this hearing are advised that the Department will adhere to the following procedures in the conduct of the hearing:

1. Each person presenting oral testimony shall provide to the hearing officer a written (preferably typed) copy of such testimony at the time the oral testimony is presented. No oral testimony will be accepted without a written copy of the testimony being provided.

2. No person will be recognized to speak for a second time until all persons wishing to testify have done so. All testimony shall conclude at the specific times except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PUBLIC HEARING
ON DRAFT AMENDMENTS TO EXISTING RULES

3. In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the Hearing Officer may impose such other rules of procedure, including the order of call of witnesses, as he/she deems necessary.

5) Name and Address of Agency Contact Person: Questions regarding these public hearings shall be directed to:

Gail M. DeVito

Administrative Rules Coordinator

Illinois Department of Public Health

535 W. Jefferson, 5th Floor

Springfield, Illinois 62761

(217) 782-6187

DEPARTMENT OF PUBLIC HEALTH

REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Family Practice Residency Code, 77 Ill. Adm. Code 590

1. Rulemaking:

- A) Description: Amendments will be made to the rules which describe repayment obligations of the Medical Student Scholarship recipients. The amendments will propose an exception to the full-time practice requirement for scholarship repayment by allowing the Department to approve less than full-time practice, based on family needs or personal health limitations documented by a physician.

- B) Statutory Authority: Implementing and authorized by the Illinois Family Practice Residency Act (110 ILCS 935)

- C) Scheduled meetings/hearing date: The Family Practice Residency Act Advisory Committee has already agreed to the proposed changes. All medical schools in the state and scholarship recipients will be notified of the proposed changes.

- D) Date agency anticipates First Notice: April 1, 1996

- E) Affect on small businesses, small municipalities or not-for-profit corporations: None

- F) Information concerning this regulatory agenda should be directed to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

- G) Related rulemakings and other pertinent information: None

- b) Part(s) (Heading and Code Citation): Distribution of Medical Student Scholarship Payback Funds, 77 Ill. Adm. Code 594

1. Rulemaking:

- A) Description: Amendments will be made to the rules which provide for the creation of resource enhancement funds in cooperation with the Illinois Development Finance Authority. The proposed amendments will clarify the actions of the Illinois Development

DEPARTMENT OF PUBLIC HEALTH

REGULATORY AGENDA

- Finance Authority and the Department in the creation and management of a capital development fund.

- B) Statutory Authority: Implementing and authorized by the Illinois Family Practice Residency Act (110 ILCS 935) and Section 55.53 of the Civil Administrative Code (20 ILCS 23.10/55.53).

- C) Scheduled meeting/hearing dates: The Illinois Development Finance Authority has been notified of, and agrees with the proposed amendments.

- c) Part(s) (Heading and Code Citation): Structural Pest Control, 77 Ill. Adm. Code 830

1. Rulemaking:

- A) Description: Changes will be proposed to amend the filing procedures for those individuals seeking to renew a license, registration or certification required under the Structural Pest Control Act; to revise the Stop Sale/Use requirements to allow the recipient of such a notice the opportunity to submit an alternative proposal to the Department which, if acceptable, would eliminate storing/disposing pesticides which are no longer registered or authorized for use, sale or distribution in the state; and to list additional violations as Type A, B, or C under Section 830.710 concerning administrative fines. New provisions will be added to establish fees for examinations, training materials, licenses, certifications, registrations or permits required under the Act; and to allow compliance with Section 14.6 of the Environmental Protection Act (EPA) to serve as an alternative to the groundwater protection technical regulations addressed in 35 Ill Adm Code 615 and 616, administered by the Illinois Environmental Protection Agency (IEPA). These new groundwater protection rules will impact approximately 60 existing commercial structural pest control businesses with pesticide storage units which are located within the minimum and maximum potable water well setback zones or regulated recharge areas established under the EPA and the Illinois Groundwater Protection Act. Definitions will be added to explain terms used in the new rules. Additional laws and rules citations will also be addressed in this rulemaking.

- B) Statutory Authority: The Structural Pest Control Act (225 ILCS 235).

- C) Scheduled hearing/meeting dates: A public hearing will be scheduled to be held during the first 45 day comment period. The

DEPARTMENT OF PUBLIC HEALTH

REGULATORY AGENDA

notice of public hearing will be published in the Illinois Register with the notice of proposed amendments.

D) Date agency anticipates First Notice: April 15, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may reduce the regulatory burden on small businesses with respect to groundwater protection at affected facilities currently regulated by the IEPA. The amendment to the Stop Sale/Use requirements will allow the regulated community to propose an alternative plan which may be more cost effective than storing unusable or unwanted pesticides tagged by the Department indefinitely or paying high costs for the disposal of these products.

F) Information concerning this regulatory agenda should be directed to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Lead Poisoning Prevention Code, 77 Ill. Adm. Code 845

1. Rulemaking:

A) Description: This rulemaking will implement an amendment to the Lead Poisoning Prevention Act to remove the mandate requiring all children under age seven to show proof of a blood test for lead poisoning prior to entry into day care, preschool, and kindergarten. Rather, all children would show proof of an assessment or a blood test screening. The Act also requires the Department to identify high and low risk geographic areas to further determine screening requirements. Children residing in high risk areas must have a blood test, children residing in low risk areas must be assessed to determine exposures to lead hazards. The Act also requires all clinical laboratory directors to report all results of blood lead tests. The information to be reported has been revised.

B) Statutory Authority: The Lead Poisoning Prevention Act [410 ILCS

DEPARTMENT OF PUBLIC HEALTH

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45].

C) Scheduled meetings/hearing dates: Hearings will be scheduled if requested during the first notice period.

e) Part(s) (Heading and Code Citation): Asbestos Abatement for Public and Private Schools in Illinois, 77 Ill. Adm. Code 855

1. Rulemaking:

A) Description: These rules will be amended to implement the Commercial and Public Building Asbestos Abatement Act. The amendments will relate to the services of response action contractors, who design and conduct removal, encapsulation, enclosure, repair or maintenance of asbestos building materials; training and licensure of persons and firms to perform abatement work and to serve as asbestos abatement contractors; response action contractors and asbestos workers; civil penalties for violation of the Act or rules; and collection of fees for training and licensure. The amendments will further implement the Act by ensuring compliance with the federal Asbestos School Hazard Abatement Reauthorization Act of 1990.

B) Statutory Authority: The Commercial and Public Building Asbestos Abatement Act; P.A. 89-143 (SB 231).

f) Part(s) (Heading and Code Citation): Public Area Sanitary Practice Code, 77 Ill. Adm. Code 895

1. Rulemaking:

A) Description: These rules will be amended to incorporate the most recent requirements for operation of drinking water supplies and drinking water standards promulgated by the U.S. Environmental Protection Agency.

B) Statutory Authority: Section 2 of the Department of Public Health Act [20 ILCS 2305/2] and Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9].

C) Scheduled meeting/hearing dates: Hearings will be scheduled if requested during the first notice period.

D) Date agency anticipates First Notice: After July 1, 1996

DEPARTMENT OF PUBLIC HEALTH

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E) Affect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may have an impact on small businesses.

F) Information concerning this regulatory agenda should be directed to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Illinois Water Well and Pump Installation Contractor's License Code, 77 Ill. Adm. Code 915

1. Rulemaking:

A) Description: These rules will be amended to require that an applicant for licensure as a water well pump installation contractor who fails to pass the examination must retake all parts in their entirety.

B) Statutory Authority: Illinois Water Well and Pump Installation Contractor's License Act [225 ILCS 345].

C) Scheduled meeting/hearing dates: Hearings will be scheduled if requested during the first notice period.

D) Date agency anticipates First Notice: After July 1, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may have an impact on small businesses.

F) Information concerning this regulatory agenda should be directed to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

DEPARTMENT OF PUBLIC HEALTH

REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Illinois Water Well Construction Code, 77 Ill. Adm. Code 920

1. Rulemaking:

A) Description: The requirements for grouting of wells will be amended and clarified.

B) Statutory Authority: Illinois Water Well Construction Code [415 ILCS 35].

C) Scheduled meeting/hearing dates: Hearings will be scheduled if requested during the first notice period.

D) Date agency anticipates First Notice: After July 1, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may have an impact on small businesses.

F) Information concerning this regulatory agenda should be directed to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): Illinois Water Well Pump Installation Code, 77 Ill. Adm. Code 925

1. Rulemaking:

A) Description: Amendments will adopt standards for improved sampling of water wells by requiring a sampling tap and will establish requirements for repairing water well pump systems and will clarify existing rules.

B) Statutory Authority: Illinois Water Well Pump Installation Code [415 ILCS 35].

DEPARTMENT OF PUBLIC HEALTH

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C) Scheduled meeting/hearing dates: Hearings will be scheduled if requested during the first notice period.

D) Date agency anticipates First Notice: After July 1, 1996

E) Affect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may have an impact on small businesses.

F) Information concerning this regulatory agenda should be directed to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 27, 1996 through March 4, 1996 and have been scheduled for review by the Committee at its March 26, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
4/11/96	Department of Public Aid, Medical Payment (89 Ill Adm Code 140)	12/9/95 19 Ill Reg 16134	3/26/96
4/11/96	Department of Transportation, Specifications for Tank Cars (92 Ill Adm Code 179)	12/29/95 19 Ill Reg 16323	3/26/96
4/11/96	Department of Transportation, Procedures (92 Ill Adm Code 107)	12/29/95 19 Ill Reg 16905	3/26/96
4/11/96	Department of Transportation, General Information, Regulations and Definitions (92 Ill Adm Code 171)	12/29/95 19 Ill Reg 16890	3/26/96
4/11/96	Department of Transportation, Carriage by Public Highway (92 Ill Adm Code 177)	12/29/95 19 Ill Reg 16881	3/26/96
4/14/96	Department of Public Health, Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill Adm Code 350)	10/20/95 19 Ill Reg 14561	3/26/96
4/14/96	Department of Public Health, Long-Term Care for Under Age 22 Facilities Code (77 Ill Adm Code 390)	10/20/95 19 Ill Reg 14607	3/26/96
4/14/96	Department of Public Health, Sheltered Care Facilities Code (77 Ill Adm Code 330)	10/20/95 19 Ill Reg 14660	3/26/96

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

4/14/96	Department of Public Health, Skilled Nursing and Intermediate Care Facilities Code (77 Ill Adm Code 300)	10/20/95 19 Ill Reg 14703	3/26/96
4/17/96	Department of Public Aid, Practice in Administrative Hearings (89 Ill Adm Code 104)	11/13/95 19 Ill Reg 15353	3/26/96
4/17/96	Department of Public Aid, Aid to Families with Dependent Children (89 Ill Adm Code 112)	10/6/95 19 Ill Reg 13759	3/26/96
4/17/96	Department of Public Aid, Related Program Provisions (89 Ill Adm Code 117)	10/6/95 19 Ill Reg 13816	3/26/96
4/17/96	Department of Public Aid, Child Support Enforcement (89 Ill Adm Code 160)	11/13/95 19 Ill Reg 15347	3/26/96
4/17/96	Department of Public Aid, Demonstration Programs (89 Ill Adm Code 170)	10/6/95 19 Ill Reg 13789	3/26/96
4/17/96	Department of Public Aid, Demonstration Programs (89 Ill Adm Code 170)	8/4/95 19 Ill Reg 11316	3/26/96
4/17/96	Department of Professional Regulation, Naprapathic Practice Act (68 Ill Adm Code 1295)	1/19/96 20 Ill Reg 1124	3/26/96
4/17/96	Department of Professional Regulation, Illinois Professional Land Surveyor Act of 1989 (68 Ill Adm Code 1270)	1/19/96 20 Ill Reg 1118	3/26/96
4/17/96	Department of Public Health, AIDS Drug Reimbursement Programs (77 Ill Adm Code 692)	5/26/95 19 Ill Reg 7121	3/26/96

PROCLAMATIONS

96-072 (Revised)

MCHENNY COUNTY HOUSING AUTHORITY/90 DAY REFERENDUM NOTICE

Whereas, the McHenry County Housing Authority desires to provide Hospital Insurance (Medicare) coverage for its employees not mandatorily covered for Hospital Insurance pursuant to Public Law 99-272 and pursuant to Public Law 101-508; and

Whereas, a referendum must be conducted in accordance with the Federal Social Security Act and Illinois Pension Code, Article 21, as amended, which requires that each eligible employee who is a participant in the Housing Authority's retirement plan be given the opportunity to register his/her personal choice by written ballot as to whether he/she elects Hospital Insurance coverage; and

Whereas, the referendum procedure requires that each eligible employee shall be given a detailed description of the two choices available to him/her and allowed 90 days notice prior to the exercise of his/her right to choose; and

Whereas, I HEREBY designate the Executive Secretary of the State Employees' Retirement System and the Executive Director of the McHenry County Housing Authority as the officials who are jointly responsible for the distribution of the details of the proclamation pursuant to the provisions of the Federal Social Security Act and the Illinois Pension Code, Article 21, as amended. I hereby confer upon such officials the authority to jointly certify the results of the referendum to be conducted as herein proclaimed among themselves; and to delegate such other duties to others as they shall deem appropriate;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim a period of at least 90 days notice between the dates of February 21, 1996, and May 20, 1996, to eligible employees of McHenry County Housing Authority that their choice shall be expressed by written ballot in conformity with the referendum procedure under the Federal Social Security Act and the Illinois Pension Code. The ballots shall be returned to the Executive Director of the McHenry County Housing Authority and the referendum concluded not later than May 20, 1996.

Issued by the Governor February 20, 1996.

Filed by the Secretary of State March 1, 1996.

96-074

HELEN LENEHAN COMMEMDED

Whereas, Helen Lenehan was elected National President of the Ladies Auxillary to the Veterans of Foreign Wars; and

Whereas, in its 82nd year, Mrs. Lenehan will be leading the organization's effort to increase the 765,283 membership and to top the \$3 million mark in the Cancer Aid and Research Fund for the eighth consecutive year; and

Whereas, she has served in the five offices leading to the National Senior Vice-President, represented the auxiliary on a tour of European posts and auxiliaries, military installations, NATO and SHAPE;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend Helen

Lenahan for her accomplishments and offer my best wishes for future success on behalf of the citizens of this state.

Issued by the Governor February 9, 1996.

Filed by the Secretary of State March 1, 1996.

96-075

TOM SHORT DAY

Whereas, Tom Short was born on August 26, 1932. He married Donna Rich on October 23, 1954, in the Waynesville, Illinois, United Methodist Church; and Whereas, from that union came two children, namely Jeff and Jan, and later, two beautiful grandchildren, Janelle and Adam; and

Whereas, during his life, **TOM SHORT** unfailingly served his family, his community and his country in a variety of capacities; and

Whereas, he served in the United States Army from November 1952 until September 1954; and

Whereas, he was a precinct committeeman from March 1968 until November 1995 and the Logan County GOP Chairman from March 28, 1988, until November 1995; and

Whereas, he owned and operated Short Oil from October 1954 until March 1990; and

Whereas, upon his death in November 1995 Illinois lost a noble family man and a true community leader; However, the spirit of his diligent efforts on behalf of the citizens of Illinois remains;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 12, 1996, as **TOM SHORT DAY** in Illinois in memory and appreciation of a valuable citizen of our state.

Issued by the Governor February 9, 1996.

Filed by the Secretary of State March 1, 1996.

96-076

DR. C. C. OWENS DAY

Whereas, the Emanuel Church of God in Christ is holding its 75th Diamond Birthday Celebration; and

Whereas, it has chosen to highlight the work of Dr. C.C. Owens, its pastor; and

Whereas, Dr. Owens has served the church for 60 years, 40 years as its pastor, giving unfailing care and counsel for his parishioners and work with the national church; and

Whereas, Dr. Owens is also the founder of the "Religious Workers Guild", an organization that has presented awards each year since 1959 to deserving members and workers for the betterment of mankind and the Church; and

Whereas, his loving family of Elvie Jeanette, his wife, and Christine, Countess, Shirley, Alice and Christopher, his children, have provided a stable and supportive base for him; and

Whereas, the Church is taking this opportunity to honor him for his hard work and continued dedication;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 21, 1996, as **DR. C.C. OWENS DAY** in Illinois in honor of his accomplishments and leadership and offer my best wishes for continued success on behalf of the citizens of this state.

Issued by the Governor February 16, 1996.
Filed by the Secretary of State March 1, 1996.

96-077

HOLY FAMILY MEDICAL CENTER DAY

Whereas, Holy Family Medical Center has addressed the needs of citizens in the Northwest Suburban area of Illinois with care and dedication; and Whereas, Holy Family Medical Center has upheld the highest standards in health care and offers all who come through its doors a chance for quality care; and

Whereas, Holy Family Medical Center's success can be attributed to the teamwork of the physicians, surgeons, nurses and staff who have worked together to make the medical center the cornerstone of superb health care in the Northwest Suburban area; and

Whereas, Holy Family Medical Center will celebrate its 35th anniversary on February 17, 1996;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 17, 1996, as **HOLY FAMILY MEDICAL CENTER DAY** in Illinois.

Issued by the Governor February 16, 1996.

Filed by the Secretary of State March 1, 1996.

96-078

IRANIAN HERITAGE DAY

Whereas, there are more than one million people of Iranian descent residing in the United States and several thousand Iranian Americans residing in the State of Illinois; and

Whereas, the Iranian American community has contributed in all areas including business, science medicine, the law, education, the arts and public service; and

Whereas, there are 16 community groups, media and cultural organizations which strive to preserve, promote and unite the Iranian American community through cultural awareness and educational programs; and

Whereas, the first day of Spring is celebrated, as New Year's Day, among all Iranians regardless of their religious beliefs; and

Whereas, Iranians all over the world will celebrate the arrival of Spring on March 20, 1996, the Iranian New Year 1375, at the time of the vernal equinox; and

Whereas, "Now Rouz", the "New Day" is celebrated each year on March 21; and

Whereas, the traditional "Now Rouz" celebration begins with spring cleaning: cleansing of the body and soul from animosity, grievances and evil thoughts and a fresh season is to follow through visiting and greetings one's neighbors, relatives and elders of the family;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 21, 1996, as **IRANIAN HERITAGE DAY** in Illinois in commemoration of more than 2500 years of Iranian civilization and tradition.

Issued by the Governor February 26, 1996.

Filed by the Secretary of State March 1, 1996.

96-079

EVERE WEATHER PREPAREDNESS WEEK

Whereas, thunderstorms, tornadoes, floods and related severe weather phenomena represent devastating natural disasters that regularly affect Illinois; and

Whereas, the severe weather season, during which human lives are lost and private property is damaged and destroyed each year, is fast approaching; and

Whereas, Illinois residents can take steps to lessen the effects of severe weather through education and preparedness, to include familiarity with the terminology used by the National Weather Service to predict and warn of severe weather and understanding the necessary precautions to protect themselves from thunderstorms, tornadoes and floods; and

Whereas, the Illinois Emergency Management Agency, with interests in emergency preparedness, continue to unite efforts throughout the state to improve individual and family survival and self-reliance; and

Whereas, the Illinois Emergency Management Agency's Family Protection Program focuses emergency preparedness efforts at all levels of government and the most basic unit of society -- the family;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 3-9, 1996, as **SEVERE WEATHER PREPAREDNESS WEEK** in Illinois and strongly urge all Illinois citizens to become familiar with the hazards posed by thunderstorms, tornadoes, and floods and to formulate or refine preparedness plans at the workplace and at home to minimize deaths and injuries from the potentially devastating effects of severe weather.

Issued by the Governor February 16, 1996.

Filed by the Secretary of State March 1, 1996.

96-080**LOYALTY DAY**

Whereas, this nation is kept strong and free by the loyal citizens who preserve our precious freedom heritage through their positive patriotic declarations and actions; and

Whereas, all loyal citizens should make it their duty to inspire complete patriotism among all of our people; and

Whereas, we urgently need a vigorous display of true red, white, and blue Americanism, thus convincing friends and enemies alike that our nation is firmly united for self-preservation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1, 1996, as **LOYALTY DAY** in Illinois. I urge every citizen, school, church, organization, business establishment, and household to reaffirm their strong allegiance to our flag and nation through active participation in patriotic programs being sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary.

Issued by the Governor February 22, 1996.

Filed by the Secretary of State March 1, 1996.

96-081**COMMUNITY CONSOLIDATED SCHOOL DISTRICT 15 COMMEMORATED ON 50TH ANNIVERSARY**

Whereas, on March 6, 1946, voters from six rural schools voted to consolidate in the interest and welfare of all children in their jurisdictions;

and Whereas, during the past 50 years, the Board of Education, superintendents, and staff members have devoted their efforts to provide the finest facilities, services, and educational programs in the state of Illinois; and

Whereas, throughout its half-century history, parents and constituents have demonstrated, by their unwavering commitment, the high regard and value they place in supporting and maintaining the quality educational programs for all children; and

Whereas, a resolution was adopted by the Board of Education establishing 1996 as a commemorative year in School District 15; and

Whereas, School District 15 looks forward to providing a quality educational experience to citizens as we jump into the 21st century;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend the Community Consolidated School District 15 on their 50th anniversary and offer my best wishes for continued success on behalf of the citizens of this state.

Issued by the Governor February 23, 1996.

Filed by the Secretary of State March 1, 1996.

96-082**EMPLOY THE OLDER WORKER WEEK**

Whereas, the State of Illinois is proud to promote and honor the state's older workers and their employers by participating in the National Employ the Older Worker Week Celebration; and

Whereas, dedicated older workers have devoted a lifetime of experience and knowledge to Illinois businesses and agencies, adapting to every change and keeping abreast of advances in technology; and

Whereas, many of these changes and advances are directly brought about by older workers who consistently seek ways to improve the work environment, increase productivity, help other workers and benefit their employers; and

Whereas, older workers deserve recognition for their ability to adjust to change, the influence they have on younger employees and the positive impact they have in communities throughout Illinois; and

Whereas, employing older workers increases public awareness of their impressive records of service, their contributions to mankind and their value to Illinois business;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 10-16, 1996, as **EMPLOY THE OLDER WORKER WEEK** in Illinois.

Issued by the Governor February 23, 1996.

Filed by the Secretary of State March 1, 1996.

96-083**FOREIGN LANGUAGE WEEK**

Whereas, the ability to communicate in English and other languages enhances economic development in the State and Nation by facilitating international trade and travel; and

Whereas, having a citizenry skilled in communication in various languages fosters world understanding and cooperation; and

Whereas, the knowledge of other languages and cultures promotes communication and understanding among the citizens of our own pluralistic

society; and

Whereas, foreign language skills are recognized as increasingly essential in today's job market in a broad array of careers; and

Whereas, in 1957, in conjunction with Alpha Mu Gamma, the National Collegiate Foreign Language Honor Society of the United States, President Eisenhower proclaimed the observance of National Foreign Language Week to emphasize the importance of foreign language study and that event has been proclaimed annually by each president since that time; and

Whereas, the Illinois Council on the Teaching of Foreign Languages, which was founded to improve and expand the teaching of languages and cultures, has celebrated Foreign Language Week in Illinois every year since the creation of the Association in 1987;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 3-9, 1996, as *FOREIGN LANGUAGE WEEK* in Illinois.

Issued by the Governor February 23, 1996.

Filed by the Secretary of State March 1, 1996.

96-084

AFRICAN AMERICAN FRATERNITY AND SORORITY WEEK

Whereas, Alpha Kappa Alpha Sorority, Inc., the oldest Black Greek letter sorority, was founded in 1908 at Howard University in Washington, D.C.; and

Whereas, Delta Sigma Theta Sorority, Inc., a public service organization, was founded at Howard University in 1913; and

Whereas, on November 12, 1922, seven young black women founded Sigma Gamma Rho Sorority, Inc., at Butler University in Indianapolis, Indiana; and

Whereas, Zeta Phi Beta Sorority, Inc., an action-oriented, community conscious organization, was founded January 16, 1920, on the campus of Howard University in Washington, D.C.; and

Whereas, Alpha Phi Alpha Fraternity, Inc., the oldest Black Greek letter fraternity, was founded in 1906 at Cornell University, Ithaca, New York; and

Whereas, Kappa Alpha Psi Fraternity was founded in 1911 at Indiana University at Bloomington, Indiana; and

Whereas, the Constitution of Kappa Alpha Psi is predicated upon, and dedicated to, the principles of achievement through a truly democratic fraternity which numbers more than 17,000 members; and

Whereas, Phi Beta Sigma Fraternity was founded in 1914 on principles of brotherhood, scholarship and service, at Howard University, Washington, D.C.; and

Whereas, Omega Psi Phi Fraternity was founded at Howard University in 1911; and

Whereas, the ideals of service and commitment to scholarship and community evident in each of the aforementioned organizations have withstood the test of time;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 26-March 1, 1996, as *AFRICAN AMERICAN FRATERNITY AND SORORITY WEEK* in Illinois.

Issued by the Governor February 26, 1996.

Filed by the Secretary of State March 1, 1996.

96-085

METROVISION SOUTHERN ILLINOIS DAY

Whereas, MetroVision Southern Illinois, an outreach of Goad Ministries International has drawn together churches, missionaries, educators, civic leaders, and community leaders and their families in the abandoned cities of our nation; and

Whereas, MetroVision Southern Illinois works to re-establish and strengthen family values; and

Whereas, MetroVision Southern Illinois exists to secure our neighborhood youth for leadership; and

Whereas, MetroVision Southern Illinois assists in building independent pride back into our communities; and

Whereas, MetroVision Southern Illinois teaches life-application principles for our urban families;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 20, 1996, as *METROVISION SOUTHERN ILLINOIS DAY* in Illinois.

Issued by the Governor February 26, 1996.

Filed by the Secretary of State March 1, 1996.

96-086

ST. DAVID'S DAY

Whereas, St. David, or Dewi Sant, is the patron saint of Wales; and

Whereas, St. David was a central figure in the Celtic Church during a period known as the "Age of Saints." He is said to have been a devout ascetic and has been credited with several miracles; and

Whereas, tradition has it that he was born circa 520, the son of Sanctus, King of Ceredigion, an ancient kingdom in Western Wales, and a woman named Nonnita, or Non, whose virtue was well known in Cornwall, Devon, Brittany and Wales; and

Whereas, St. David was said to be the uncle of King Arthur by two famous historians, Geoffrey of Monmouth and Gerald of Wales; and

Whereas, St. David's heroic reputation flourished throughout the Middle Ages; and

Whereas, March 1 commemorates St. David's death in 589, which was commemorated in early liturgical calendars. He was officially canonized by Rome in 1123; and

Whereas, the Cambrian Benevolent Society of Chicago will honor St. David, the patron saint of Wales, with music and fellowship at the 144th annual St. David's Day dinner;

Therefore, I Jim Edgar, Governor of the State of Illinois, proclaim March 1, 1996, as *ST. DAVID'S DAY* in Illinois.

Issued by the Governor February 26, 1996.

Filed by the Secretary of State March 1, 1996.

Rules acted upon during the quarter of January 1 through March 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 III. Adm. Code 952 published in Issue 2 will be listed as 50-952-2. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatala@ccgate.sos.state.il.us (Internet address).

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